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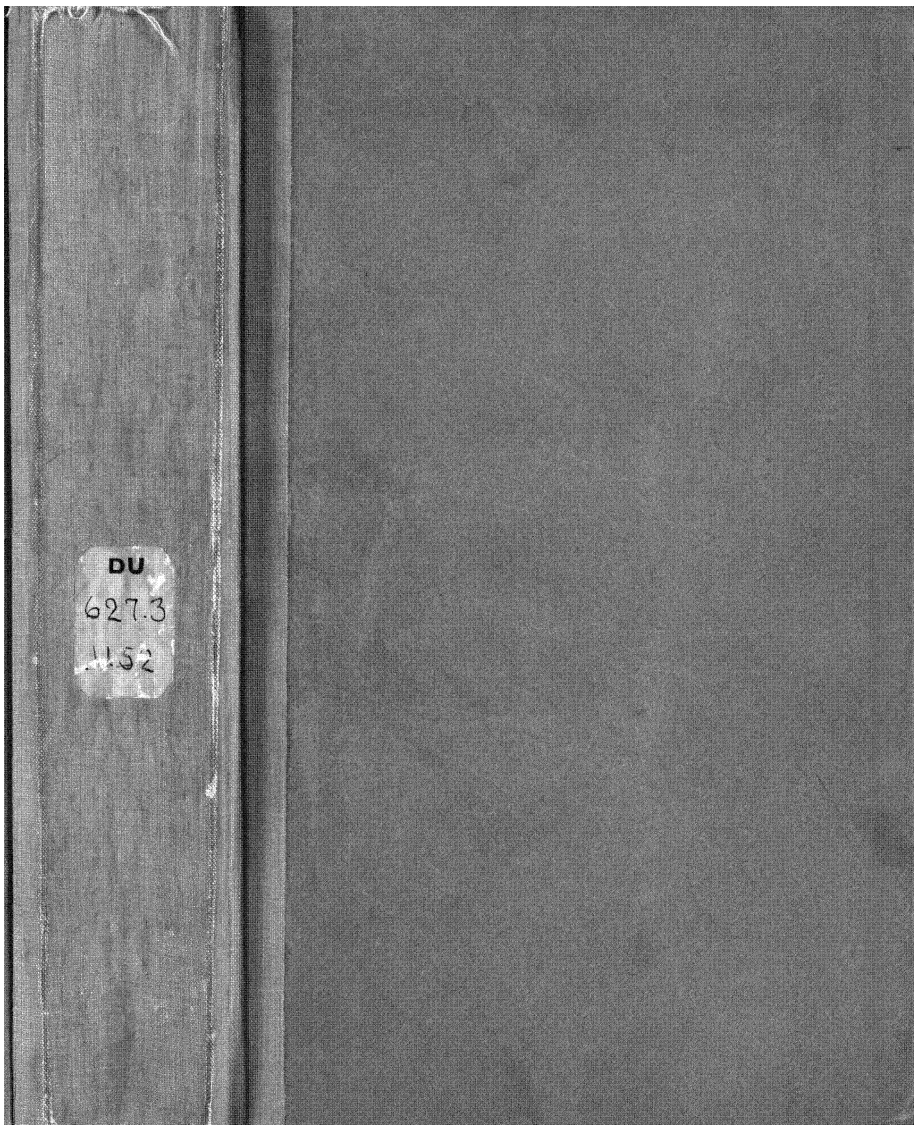
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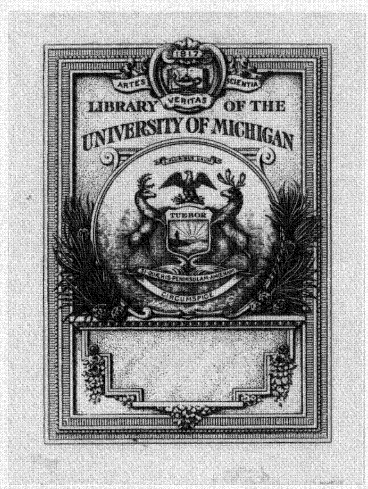

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55TH CONGRESS, 3d Session. | SENATE. | DOCUMENT No. 16.

U. S.

HAWAIIAN COMMISSION.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

THE REPORT OF THE HAWAIIAN COMMISSION, APPOINTED IN PURSUANCE OF THE "JOINT RESOLUTION TO PROVIDE FOR ANNEXING THE HAWAIIAN ISLANDS TO THE UNITED STATES," APPROVED JULY 7, 1898; TOGETHER WITH A COPY OF THE CIVIL AND PENAL LAWS OF HAWAII.

DECEMBER 6, 1898.—Read, referred to the Committee on Foreign Relations, and ordered to be printed.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1898.

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Stacks
3-31-1934

To the Congress of the United States:

I transmit herewith, for the information of the Congress, the report of the Hawaiian Commission, appointed in pursuance of the "Joint resolution to provide for annexing the Hawaiian Islands to the United States," approved July 7, 1898; together with a copy of the civil and penal laws of Hawaii.

WILLIAM MCKINLEY.

EXECUTIVE MANSION,
December 6, 1898.

UNITED STATES SENATE,
Washington, D. C., December 2, 1898.

To the PRESIDENT:

I have the honor to inclose herewith, for transmission to the Congress of the United States, the official report of the Hawaiian Commission, appointed in pursuance of the joint resolution of Congress approved July 7, 1898, being public resolution No. 51 of the Fifty-fifth Congress, together with an appendix containing copies of certain bills the passage of which is respectfully recommended, and a copy of the civil and penal laws of Hawaii, as modified in conformity with the recommendations of the commission, and reports from various executive officers of the Hawaiian Government and of committees appointed by the commission.

Respectfully submitted.

S. M. CULLOM, *Chairman.*

III

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THE HAWAIIAN COMMISSION.

REPORT.

The commissioners appointed and commissioned by the President in pursuance of public resolution, No. 51, entitled "Joint resolution to provide for annexing the Hawaiian Islands to the United States," approved July 7, 1898, as follows—

[PUBLIC RESOLUTION—NO. 51.]

JOINT RESOLUTION to provide for annexing the Hawaiian Islands to the United States.

Whereas the Government of the Republic of Hawaii having, in due form, signified its consent, in the manner provided by its constitution, to cede absolutely and without reserve to the United States of America all rights of sovereignty of whatsoever kind in and over the Hawaiian Islands and their dependencies, and also to cede and transfer to the United States absolute fee and ownership of all public, Government, or Crown lands, public buildings or edifices, ports, harbors, military equipment, and all other public property of every kind and description belonging to the Government of the Hawaiian Islands, together with every right and appurtenance thereunto appertaining: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That said cession is accepted, ratified, and confirmed, and that the said Hawaiian Islands and their dependencies be, and they are hereby, annexed as a part of the territory of the United States and are subject to the sovereign dominion thereof, and that all and singular the property and rights hereinbefore mentioned are vested in the United States of America.

The existing laws of the United States relative to public lands shall not apply to such lands in the Hawaiian Islands; but the Congress of the United States shall enact special laws for their management and disposition: *Provided*, That all revenue from or proceeds of the same, except as regards such part thereof as may be used or occupied for the civil, military, or naval purposes of the United States, or may be assigned for the use of the local government, shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes.

Until Congress shall provide for the government of such islands all the civil, judicial, and military powers exercised by the officers of the existing government in said islands shall be vested in such person or persons and shall be exercised in such manner as the President of the United States shall direct; and the President shall have power to remove said officers and fill the vacancies so occasioned.

The existing treaties of the Hawaiian Islands with foreign nations shall forthwith cease and determine, being replaced by such treaties as may exist, or as may be hereafter concluded, between the United States and such foreign nations. The municipal legislation of the Hawaiian Islands, not enacted for the fulfillment of the treaties so extinguished, and not inconsistent with this joint resolution nor contrary to the Constitution of the United States nor to any existing treaty of the United States, shall remain in force until the Congress of the United States shall otherwise determine.

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Until legislation shall be enacted extending the United States customs laws and regulations to the Hawaiian Islands the existing customs relations of the Hawaiian Islands with the United States and other countries shall remain unchanged.

The public debt of the Republic of Hawaii, lawfully existing at the date of the passage of this joint resolution, including the amounts due to depositors in the Hawaiian Postal Savings Bank, is hereby assumed by the Government of the United States; but the liability of the United States in this regard shall in no case exceed four million dollars. So long, however, as the existing Government and the present commercial relations of the Hawaiian Islands are continued as hereinbefore provided said Government shall continue to pay the interest on said debt.

There shall be no further immigration of Chinese into the Hawaiian Islands, except upon such conditions as are now or may hereafter be allowed by the laws of the United States; and no Chinese, by reason of anything herein contained, shall be allowed to enter the United States from the Hawaiian Islands.

The President shall appoint five commissioners, at least two of whom shall be residents of the Hawaiian Islands, who shall, as soon as reasonably practicable, recommend to Congress such legislation concerning the Hawaiian Islands as they shall deem necessary or proper.

SEC. 2. That the commissioners hereinbefore provided for shall be appointed by the President, by and with the advice and consent of the Senate.

SEC. 3. That the sum of one hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, and to be immediately available, to be expended at the discretion of the President of the United States of America, for the purpose of carrying this joint resolution into effect.

Approved, July 7, 1898—

make the following report:

A majority of the said commissioners met and effected a partial organization of the commission at Washington, D. C., on the 16th day of July, 1898, and determined that the commission should next meet at Honolulu, Hawaiian Islands, as soon as practicable.

Accordingly, the commission met in Honolulu on the 18th day of August, 1898, all of the commissioners being present.

MEETINGS AT HONOLULU.

The commission thereafter held its meetings in regular daily sessions in the former palace of the Hawaiian Government, now known as the "Executive Building," of which due public notice was given. Certain times were arranged for the hearing of suggestions from the public and for the receiving of petitions or other papers which might be presented. A number of societies or associations, as well as individuals, appeared and were heard through their chosen representatives by the commission.

At designated times the commission visited several of the most important islands of the Hawaiian group, in company with persons representing important agricultural and commercial interests and others representing the Government.

These visits to the islands of Hawaii, Maui, Oahu, and Molokai, and to the seaports of Honolulu, Hilo, Lahaina, Wailuku, Kawaihae, Kahului, and Kalaupapa, served to give the commission a great deal of valuable information as to the condition and capabilities of the islands as regards agriculture and commerce, and some knowledge as to the climate, temperature, and soil. The atmospheric peculiarities and meteorological conditions also furnished important subjects for our study and inquiry, as bearing upon the adaptability of the islands for general or miscellaneous immigration from the United States.

THE INHABITANTS.

An important subject of our investigation was that of the adaptability of the several races of the people who inhabit the islands for

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American citizenship and their ability to sustain the obligations which attach to the right of suffrage. The American idea of universal suffrage presupposes that the body of citizens who are to exercise it in a free and independent manner have, by inheritance or education, such knowledge and appreciation of the responsibilities of free suffrage, and of a full participation in the sovereignty of the country, as to be able to maintain a republican government.

The following different races and nationalties of people now occupy the Hawaiian Islands:

Hawaiians and mixed blood	39,000
Japanese	25,000
Chinese	21,500
Portuguese	15,000
Americans	4,000
British	2,250
Germans and other Europeans	2,000
Polynesians and miscellaneous	1,250
Total	110,000

The native Hawaiians are a kindly, affectionate people, confiding, friendly, and liberal, many of them childlike and easy in habits and manners, willing to associate and intermarry with the European or other races, obedient to law and governmental authority. Many of the Japanese are contract laborers, who are engaged upon the sugar plantations. Others are employed as day laborers. There are some, however, who have become merchants and mechanics, who conduct business for themselves, and who exhibit the national characteristics of skill, thrift, and ability.

There are about 700 Chinese who have been naturalized into the Hawaiian Republic. Many of the Chinese and Japanese on the islands are, or have been, brought there under permits by that Government and contracts under which they are bound to work for a term of years and to return at the expiration of the contract term of service. At the expiration of their terms they are either returned to their native country or renew their labor contracts, or become day laborers.

Nearly all Chinese laborers desire and expect to go back to China at death, if not before. The Japanese are not so particular as to returning; but with their accumulative habits they frequently attain a position and standing in business which makes it desirable to them to remain in the islands.

The Americans, although in such a small minority, practically dominate the governmental affairs of the country, and, with the British and Germans, and part-blood Hawaiian-Americans together, constitute the controlling element in business. The Chinese and Japanese do not now possess political power, nor have they any important relation to the body politic, except as laborers. The Portuguese are largely immigrants from the islands and colonies of Portugal in the Atlantic, and have never been very closely tied to their mother country. With the certain attrition which is bound to exist between them and the Americans in Hawaii, and under the influence of the existing public-school system, which makes the study of the English language compulsory, they promise to become a good class of people for the growth of republican ideas.

It will, of course, be observed that this entire population of 110,000 is dominated, politically, financially, and commercially, by the American element.

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THE HAWAIIAN ISLANDS.

The Hawaiian Islands are located in the Pacific Ocean about 2,100 miles southwest from San Francisco, and are between 18° and 22° north latitude and 154° and 161° west longitude. The latitude or distance from the equator is about the same as that of Cuba. The climate would probably be the same as that of Cuba were it not modified and equalized by the northeast trade winds, which prevail for about nine months of the year, coming over thousands of miles of ocean uncontaminated by impurities. The Japanese gulf stream is a broad current of cool water, flowing like a river across the Pacific Ocean, which lowers the temperature within its vicinity materially. There are other somewhat permanent currents and winds which affect temperature, and these great natural agencies tend constantly to neutralize the tropical heat, which would otherwise seriously affect the temperature of the islands. The annual average of temperature at Honolulu is 72° or 73° F., while the lowest is 55° and the highest 88°. During the warmest month of the year, September, the temperature, except for about two hours at midday, stands at about 78°. There is never any frost or snow, except upon the high mountain peaks, where at the altitude of nearly 14,000 feet there are at times considerable snowfalls.

AREA AND POPULATION.

The Hawaiian group numbers seven inhabited islands and eleven or twelve small rocky or sandy shoals or reefs, with a total area of 6,740 square miles. They are described as follows:

	Population, 1896.
Hawaii, area 4,210 square miles	33,285
Maui, 760 square miles	17,726
Oahu, 600 square miles	40,205
Kauai, 590 square miles (rich farming and grazing lands)	15,228
Molokai, 270 square miles (agricultural and grazing)	2,307
Lanai, 150 square miles (devoted to sheep raising)	105
Niihau, 97 square miles (leased to sheep raisers)	164

Kahoolawe, 63 square miles.
Molokini, small size.
Lehua, small size.
Nihoa, 500 acres (about), precipitous rock, 400 feet high (244 miles northwest from Honolulu).
Laysan, 2,000 acres (about), guano island, low and sandy, 30 feet high (800 miles northwest from Honolulu).
Gardeners Island, two inaccessible rocks, 200 feet high, about 1,000 feet long (607 miles northwest of Honolulu).
Liscansky Island, 500 acres (about), low and sandy, 25 to 50 feet high (920 miles northwest from Honolulu).
Ocean Island, 500 acres (about), low and sandy (1,800 miles northwest from Honolulu).
Necker Island, 400 acres (about), a precipitous rock, 300 feet high (400 miles northwest from Honolulu).
Palmyra Island, a cluster of low islets, about 10 miles in circumference, with lagoon in center; has a few cocoanut trees (1,100 miles southwest of Honolulu).
Kaula, small, rocky island, a few miles southwest of Niihau.
French Frigate Shoal, scattered shoals or reefs.

THE PUBLIC DOMAIN.

The statistics available in regard to the public lands belonging to the Republic of Hawaii at the time of the cession to the United States are not of that absolute or definite character that they can be accepted as conclusive of areas and values.

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The frequent radical changes in the past years in the methods of control and of sales and leases and transfers of lands under the direction of the Crown—some made by royal order or grant, some by law, and some without much legality or formality—have made it very difficult to arrive at exact figures. We have, however, from the best sources available, obtained the following statements, which are approximately correct, but subject to amendment when full opportunity may present for critical examination and computation.

In 1894 the Crown lands, or the lands formerly belonging to the Monarch, were taken over to the Republic of Hawaii. They amounted on May 1, 1894, to 971,463 acres, valued at $2,314,250. Those lands are now nearly all held by tenants under long leases, and for the year ending March 31, 1894, the rentals received were $49,268.75. The leases in force when the transfer of sovereignty from the Monarchy to the Republic took place have been recognized and the rental treated as Government income. As these leases expire the lands become available for settlement or lease, under the public-land system. An estimate by the Government September 30, 1897, of all Government lands and their value, shows an aggregate of 1,762,330 acres, worth $4,147,700, to which is to be added the value of lots in Honolulu and Hilo—old lots unleased and sites of fish market, custom-house, and reclaimed lots—in all estimated at $1,481,000, making a total value of $5,629,500. Since September 30, 1897, and up to August 12, 1898, patent grants in fee simple, conveying 8,860 acres of agricultural land, valued at $48,500, have been issued, so that the present total area is 1,772,640 acres and the total value is $5,581,000.

Values have, however, been rapidly appreciating, so that this estimate is a very moderate one. The leases now in force will expire at various dates and for various tracts from year to year until the year 1921, when all the leases issued under the Monarchy will terminate.

Before noting the peculiarities and characteristics of the several principal islands it is proper to state, generally, that all, without exception, are of volcanic origin, while extinct craters, volcanic cones, and extensive fields of lava are almost universal.

Kauai, the most northwesterly of the group, is nearly circular in form and about 25 miles in diameter, having an area of about 590 square miles. It is believed to be one of the oldest of the Hawaiian Islands; has a deeper soil and a greater proportion of naturally arable land. It seems to have been originally formed by eruptions of Mount Waialeale, the great central peak 6,000 feet in height, a volcano which has been extinct from time immemorial. There are several mountain streams flowing from an elevated natural reservoir or lake in the central plateau.

The valleys between the mountain ranges, which radiate from the interior, are broad and deep, having large areas of rich bottom lands, very productive under the influence of irrigation, which is largely in use for the sugar plantations. Kauai was, in the remote past, a kingdom by itself, and the stories of kings and chiefs and warriors of Kauai are the traditional histories of the island. Lihue, the chief settlement, has about 3,500 inhabitants. The Falls of Wailua are romantically situated in the midst of a luxuriant forest, the river falling 180 feet in one unbroken sheet. Coffee, sugar, rice, and some other products are grown with profit. The inhabitants of Kauai take much pride in their fertile lands.

Oahu, upon which is situated Honolulu, the capital city, is the most populous of the islands, having over 40,000 inhabitants. It is devoted

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largely to pasturage and agriculture. Several very profitable sugar plantations are now operated on this island, and the full development of the artesian water supply for the irrigation of growing sugar cane is here exhibited. During the past two years the yield of sugar upon one of the favorably situated plantations has exceeded expectation, amounting to from 9½ to 10½ tons of sugar per acre. Honolulu Harbor, although not large enough to accommodate a rapidly growing commerce, is a deep-water opening through the coral reefs at the mouth of the Nuuanu Valley, in front of the city of Honolulu. A few miles away is Pearl Harbor, a naturally excavated harbor, covering 8 or 10 square miles of water surface, and ranging from 20 to 90 feet deep.

It is expected that by a small appropriation a coral reef, which bars the entrance from the ocean for large vessels, will be removed by the Government of the United States, whereupon this will furnish the best harbor on the Pacific. Some of the most beautiful and enchanting residence sites to be found are at Honolulu. A railway 55 miles in length connects Honolulu with Waialua and several intervening points. Several very prosperous business enterprises are established at Honolulu, and, altogether, the location, for many reasons, is a most desirable one for commercial and shipping facilities.

Molokai is a long, narrow island, about 40 miles in length and less than 10 miles in width. The eastern half of Molokai has some very wild mountain scenery, and in some places a luxuriant vegetation. Recently much attention has been given to irrigation from artesian water, and a large area is expected soon to be brought under profitable culture. Still, most of the island is devoted to pasturage. Quite a large number of deer have their haunts on this island.

LEPER SETTLEMENT.

The noted leper settlement is situated on the north side of Molokai. There are about 1,200 lepers in the settlement, fed, clothed, and cared for by the Government of Hawaii. A few devoted monks and nuns of the Franciscan order have the immediate personal care of the lepers. The peninsula on which the lepers are maintained contains about 5,000 acres of land, which is completely surrounded and separated from the world by a turbulent ocean on the north and a range of impassable mountain heights on the south.

Maui is believed to be one of the oldest volcanic islands. Much of the lava of which it is composed has become decomposed and available for easy cultivation, while the use of artesian water for irrigation has made the sugar lands the most profitable known. This island has upon it the great volcano of Haleakalau, now and for centuries entirely quiet, but which is the largest extinct volcano in the world. This crater is half a mile deep and 20 miles in circumference.

On this island artesian water is pumped in quantities of 6,000,000 gallons daily, to the height of 400 feet, for sugar irrigation. The lands on the south and west sides of the island are mostly cattle ranches and pasture lands, while on the north and east the numerous streams furnish abundance of water for prosperous plantations of sugar and coffee. This island was once a kingdom. The town of Lahaina was its capital and contained the palaces of the king. Some of the plantations on this island were visited by us and were truly places of beauty. They evidenced great enterprise, and yield large profits from the great crops of sugar.

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Niihau is an island of nearly 100 square miles, the most of the land upon which has been leased to sheep raisers. There are about 100 native inhabitants, who adhere in manners and style of living to the customs of their earlier ancestors. The handiwork of the natives in the making of a kind of mats is known all over the islands. They are called "Niihau mats," and bring large prices from the collectors of curios. A part of this island consists of a coral reef, uplifted by some convulsion of nature, but now largely covered by volcanic material washed down from the mountains.

Lanai comprises about 100,000 acres, devoted almost wholly to sheep raising and the production of wool. It has only about 100 inhabitants, and is rarely visited except by persons interested in the sheep-raising or wool-growing industry.

Hawaii, the largest of the islands and from which the group takes its name, contains nearly 2,500,000 acres of land, and has a population of nearly 34,000. Its principal town is Hilo, situated on Hilo Bay at the mouth of the Wailuku River. Hilo possesses several churches, a good hotel, and several business houses. There are three lofty mountains on the island of Hawaii, viz, Mauna Kea, Mauna Loa, and Hualalai. The two first are nearly 14,000 feet high and the other 8,000. Upon Mauna Loa are two great volcanoes, Kilauea, upon the side of the mountain at an elevation of 4,000 feet, and the other, Momuaweoweo, at the top, or at about 13,500 feet elevation. These two great volcanoes are still alive, but not now in eruption.

We visited Kilauea and crossed its broad lava fields within the walls of its original crater, and now about 500 feet below the rim or edge of the wall. On the southerly portion of this broad lava bed is a still deeper pit, or live crater, apparently some 800 feet below the surface of the broad lava field before mentioned, from the very bottom of which arises a whitish sulphurous smoke so dense as to hide from full view the surface of the burning, seething liquid far below. This is what is called "Halemaumau," "the house of fire," when the volcano is active and in eruption, but it is now very quiet and smoky. Yet even now numerous crevices are found, some of them 2 or 3 miles from this pit or lake, from which smoke or steam constantly arises, and in which sticks thrust down a few inches by us readily took fire. Around some of these crevices an efflorescence of sulphur was noticed, and on examination we found deposits of pure native sulphur so hot from the subterranean fountain, perhaps 3 miles away, that it could not be handled. It must be remembered that this description refers only to Kilauea, and not at all to the great volcano itself at the top of the mountain, and called "Mokuaweoweo," which during the ages and ages past has poured the lava over the island many times.

The magnitude of this mountain is hardly believed at first sight, but the distance is not less than 60 miles from the base on one side to the other. And from the crater of Kilauea, on the side of Mauna Loa, to the crater of Mokuaweoweo, at the top of the same mountain, is about 25 miles. The side slopes of these great mountains comprise practically all the agricultural land upon this island. This can nearly all be cultivated after it is cleared from its luxuriant vegetation. Some of it, however, has such a rank growth of tree ferns, wild bananas, and all sorts of tropical trees and vines, as to require a cost of from $20 to $60 per acre to clear it. There are great fields of sugar cane on this island, the best of which yields under favorable conditions from 5 to 8 or more tons of sugar per acre.

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A large part of the volcanic soil is adapted to coffee growing, and produces the best coffee in the world. Many new plantations have been started in the last two or three years, and, as a rule, the older the trees the greater the yield of coffee, so that large profits are anticipated. Upon the sides of these great mountains, at the proper altitudes, almost all grades of temperature may be found, so that the vegetation of all countries may be grown by exercising care in the location selected. Any desired amount of rainfall may be obtained by selecting the proper altitude and location. On this point it may be said that a rainfall varying from a few inches to 16 feet annually may be secured by using a little care in selecting a location. In addition to the various crop products, it should be stated that cattle raising is one of the principal industries upon some of the higher lands. There is much timber land also found on the mountain sides.

HARBORS AND LANDING PLACES.

Although the harbor and limited roadstead of Honolulu have for a hundred years or so furnished the wharf privileges and anchorage ground for the numerous vessels of all classes which have visited the islands, there is already such a pressing demand for an early increase in harbor room, wharf area, and anchorage in the Honolulu harbor, as to make necessary the immediate consideration of measures for additional harbors and wharves.

Within 6 or 7 miles of Honolulu lies Pearl Harbor, a most valuable feature of our Hawaiian acquisition. It is the only place capable of use as a naval station in the North Pacific Ocean, except immediately upon the American coast. It consists of an inland lake containing 8 square miles of water, about half of which is from 5 to 10 fathoms deep, admitting the largest ships. The remaining portion has a depth of from 2 to 4 fathoms. It is accessible from the sea by a passage a third of a mile in width, which, after a small amount of dredging, will become a safe and excellent entrance for vessels.

This harbor is many times larger than that of Honolulu, and it offers to the United States facilities for the increase of Pacific and Oriental commerce the value of which can not be estimated. If the United States shall develop this desirable place, as it may easily do, it will afford the American Navy the most advantageous spot for a coaling station and naval depot to be obtained anywhere.

No other inclosed harbor exists in any group for thousands of miles north or south. One writer says:

> The naval power owning Pearl Harbor will therefore hold in complete monopoly the mastery of the Pacific Ocean north of the equator. Pearl Harbor is the chief jewel of the Hawaiian group.

Owned now by the United States, it offers us the key to the commerce of China, Japan, and Australia.

RAINFALL.

There is a great diversity in the amount of rainfall in different localities, but it is thought that about 50 inches per annum is the average over the group. On the windward (northeast) side of some of the islands at certain low altitudes the rainfall reaches 150 inches, as at Hilo, or even 200 inches, as at the volcano of Kilauea, while on the leeward side, at the sea level, very little rain falls, but up the mountain sides there is usually abundant moisture. The climate is particularly

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healthy, both in the dry or wet localities, it being claimed even that the frequent showers in some places do not saturate the air with moisture. There is very seldom much humidity in the atmosphere, and even in damp or marshy districts there is seldom any malaria or fever germs.

TEMPERATURE AND RAINFALL.

Temperature and rainfall at Honolulu for the twelve months from July, 1896, to June, 1897, inclusive.

Month.	Highest.	Lowest.	6 a. m.	2 p. m.	9 p. m.	General average.	Rainfall.
	°	°	°	°	°	°	*Inches.*
July	87	69	74	82	77	77	3.55
August	88	68	75	83	78	78	3.71
September	88	68	73	82	77	77	.64
October	86	68	71	81	76	76	3.57
November	85	65	69	80	75	75	3.46
December	83	64	66	77	73	72	6.70
January	81	55	69	76	70	70	2.90
February	82	62	69	77	72	72	2.15
March	81	63	73	78	72	72	1.92
April	82	64	70	79	73	73	1.46
May	84	67	70	80	74	74	1.95
June	84	68	72	81	75	75	1.74
For the year	88	55	71	80	72	74	30.75
Average for past seven years	90	54	71	80	73	74	38.80

FOR THE YEAR 1897.

On the island of Hawaii the rainfall at two stations, Kaumana and Olaa, was, respectively, 136 and 146 inches. For the entire island the average rainfall was 65 inches. On the island of Maui the average was 27½ inches. On Kauai the average was 46 inches.

NEWSPAPERS AND PERIODICALS.

The following daily papers are printed in Honolulu: Pacific Commercial Advertiser, English; Daily Bulletin, English; Hawaiian Star, English; Independent, English; Aloha Aina, native; Ka Loea Kalaiaina, native; Hawaiian Shimpo, Japanese.

Also the following semiweeklies: Hawaiian Gazette, English; Shim Nipon, Japanese; Yamato Shimbun, Japanese.

Also the following semiweeklies: Weekly Hawaiian Star, English; The Kuokoa, native; O Luro, Portuguese; O Directo, Portuguese; Hawaiian Chinese News, Chinese; Chinese Times, Chinese; Chinese Chronicle, Chinese; Ka Makaainana, native.

And the following monthlies: Al Boas Novas, Portuguese (sectarian); The Paradise of the Pacific, English; The Planters' Monthly, English; The Friend, English; Anglican Church Chronicle, English.

And the following quarterlies: The Honolulu Diocesan Magazine, English; The Young Men's Christian Association Review, English.

The Hilo Tribune, weekly, and the Hawaii Herald, weekly, are published in English at Hilo, on the island of Hawaii.

CHURCHES IN HONOLULU.

Central Union Church (Congregational).
Methodist Episcopal Church.
The Christian Church.
The Christian Chinese Church.

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The Salvation Army.
St. Andrew's Cathedral (Episcopal); first and second congregations and Chinese congregation.
Roman Catholic Church.
Protestant Mission, Portuguese.
Japanese Union Church, connected with Hawaiian Board of Missions.
Japanese Church.
Kawaihao Church, Congregational, native.
Kaumahapili Church, Congregational, native.

THE PUBLIC HEALTH.

The Government has devoted its most earnest efforts to the protection of the inhabitants against the introduction of dangerous contagious and infectious diseases, and a strict quarantine is maintained at points where ships from infected ports might call.

The board of health is one of the most important agencies in the islands for the preservation and promotion of the public health, and is given almost plenary powers under the law. Ordinary malarial fevers are quite rare. There are, however, occasional cases of typhoid fever, especially among the United States troops recently stationed at Honolulu. There have been occasional epidemics of various diseases at times during the past one hundred years.

Under present health regulations, with the experience gained, the Government can, it is thought, cope with epidemic diseases better than that of almost any other country.

OCEANIC CABLE.

The necessity for an oceanic telegraph cable between the Hawaiian Islands and the United States has been emphasized during the military and naval warfare with Spain during the current year. It is believed that such a cable under the control of the United States, as a means of speedy communication with the remote parts of our own country, is demanded by the military conditions existing or liable to exist at any time. It is also believed that the commercial interests of the United States and of Hawaii require that such a Pacific cable should be laid at the earliest date.

EDUCATION.

The present public-school system of Hawaii is very satisfactory and efficient. The conduct of the public schools and the tendency of the entire educational establishment of Hawaii is in the highest degree advantageous to the United States. The laws of Hawaii already provide that school attendance by all persons of school age shall be compulsory, and also that the English language shall be the universal language taught. The effect of these two enactments is the most beneficial and far-reaching in unifying the inhabitants which could be adopted. It operates to break up the racial antagonisms otherwise certain to increase, and to unite in the schoolroom the children of the Anglo-Saxons, the Hawaiians, the Latins, and the Mongolians in the rivalry for obtaining an education. No system could be adopted which would tend to Americanize the people more thoroughly than this.

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FOREIGN AND DOMESTIC COMMERCE.

Commercial conditions of a country are so readily influenced by what at first may appear to be remote and unimportant enactments that the utmost sagacity is necessary in the preparation of laws for the promotion of commercial interests. The commerce between the United States and Hawaii, as well as the foreign commerce of both, should be so protected by our navigation laws and vessel registry and by our revenue legislation as to give to our country and to our newly acquired people all the advantages which should properly come to either. This is apparent. We can not ignore a territory which grows, exports, and sells more than $15,000,000 in value annually. The future of this new domain of industry can hardly yet be imagined. But when Pearl Harbor becomes the meeting place and the transfer depot of the ships of Russia, China, Japan, Australia, New Zealand, and of the Atlantic liners which will steam through the Nicaragua Canal, commingling on the great Pacific with the vessels of the western coast of the American continent, the genius of our country will preside over the traffic which is certain to come in the near future. As the conduct of a four-months' war has produced such a rearrangement of the methods and lines of the world's commerce, it is difficult to foretell what may be possible in a few years of peace in the future.

AGRICULTURAL PRODUCTS.

The principal agricultural products of Hawaii are sugar, rice, coffee, taro, bananas, cattle, and sheep. The great market crop which furnishes the income for the agriculturists of Hawaii is sugar. The sugar crop exceeds in money value many times the aggregate of all other products. The exports of sugar from Hawaii in 1896 amounted in value to $14,932,172, while all other exports together, including rice, coffee, bananas, wool, hides, pineapples, only amounted to $583,058. In other words, about twenty-five times as much sugar was exported as of all other products together. Under the coming sovereignty of the United States, it is believed that the various other agricultural products will be raised in much greater quantities. There is no doubt that many kinds of farm products and fruits can be very profitably grown in Hawaii, and, under favorable conditions, be made a source of large income.

The rice crop is now limited to small areas and raised only by Chinamen. And yet sufficient rice was grown in 1896 to export over 5,000,000 pounds, valued at nearly $200,000.

The growth of coffee is comparatively a new industry in Hawaii, but the area of the plantations is now rapidly increasing. About half a million pounds is now annually exported. The quality is the very best.

Banana growing is gradually becoming a profitable industry, although only recently attempted on a large scale. The yield is now about 150,000 bunches yearly.

The taro root, which is the staple article of food for most of the native Hawaiians, finds demand for local consumption of a large quantity. So little of it is exported that there are no statistics of value.

Pineapples are readily and profitably grown.

Oranges, limes, and lemons, and other citrus fruits, hitherto almost wholly imported from California, are now being grown of good quality in moderate quantities in Hawaii. Many other tropical fruits have been experimented with, and it is apparent that they can be readily grown with profit. The guava, the papaia, the avocado, and figs are also easily produced.

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Live stock, including cattle, sheep, and swine are raised to some extent. It is stated that the value of live stock produced ranks third in amount of all the agricultural products of the islands.

THE PRISON SYSTEM.

The Hawaiian Islands maintain a prison system, the principal penal institution corresponding to the State prisons of the various States of the Union, while on each of the larger islands a prison for the use of their respective local offenders is provided. In addition there is in each district a lockup or detention calaboose, in some of which are detained small gangs held for minor offenses and sentenced for short terms to perform street or road labor. Where possible the plan of placing but one prisoner to a cell is adhered to. The Honolulu prison is under the charge of a jailor and several prison guards, the whole system subject to the supervision of the marshal of the islands, who is responsible to the board of prison inspectors appointed by the minister of the interior.

FISHERIES.

The customs and habits of the native Hawaiians, as well as some others of the inhabitants of the islands, have caused the fisheries and fishing rights to assume some importance as an industry, which has always been under the control of the Government. The fish caught and used by the islanders are all salt-water fish, caught from the sea or the bays and harbors adjacent. There are nearly a hundred varieties, including shellfish, sold in the markets of the islands. Scarcely one of these varieties would be known or identified by Americans from its native name. Some of the varieties are of excellent quality, and the fisheries promise to become an important industry in the future of the islands.

The inventory of the real and personal property (exclusive of Government public lands) lately belonging to the Republic of Hawaii and now in possession of the several departments and offices of the Republic, which inures to the United States by the act of annexation, valued by the departmental and bureau officials of the Republic, amounts as follows:

Department of the interior	$4,612,766.66
Judiciary department	80,098.00
Finance office	5,100.00
Tax office	1,218.12
Customs bureau	3,456.25
Postal bureau	8,067.99
Audit bureau	557.00
Department of foreign affairs	60,625.00
Police department	17,351.00
Total	4,789,240.02

(See Appendix for detail of inventory.)

To this amount should be added the value of the Government or public lands, $4,147,700, and lots in Honolulu and Hilo, with unleased lots and sites of fish market, custom-house, and reclaimed lots, worth $1,481,800, making the following aggregate valuation:

Government or public lands	$4,147,700.00
Government lots, sites, etc	1,481,800.00
Departmental property	4,789,240.02
Aggregate	10,418,740.02

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being the estimated value of the property of the Republic of Hawaii awaiting transfer to the United States.

A comparison has been made of the operation of the tariff laws of the two countries, the United States and the Republic of Hawaii, respectively, for the year 1897, showing that upon the same importations for which Hawaii collected in that year, as customs duties, the sum of $548,483.54, the United States, under the Dingley tariff law, would have collected $902,706.93, or an excess of $354,233.39. Also during the first six months of the year 1898—

Hawaii collected the sum of	$240,038.88
The United States under the Dingley law would have collected	669,636.97
An excess of	429,598.09

or an aggregate excess, in the year and a half, of $793,821.48 over the amount collected by Hawaii.

The total importations of dutiable foreign goods into the Republic of Hawaii from all countries except the United States in the year 1897 were $1,920,824.67, and in the first six months of 1898 were $1,169,153.13. The total exports from Hawaii in 1897 amounted to $16,021,775.19, being greater than in any single year in the history of the islands.

The preliminary portion of this report has been mainly descriptive of the Hawaiian Islands, the inhabitants, the existing institutions, the public domain, the productions, the climate, the harbors and shipping facilities, and various conditions of general interest. The following portion is mainly devoted to a discussion of the legislation proposed by the commission, and giving in the appendix the various reports received, and copies of the bills proposed for the consideration of Congress.

The bill herewith presented for the consideration of Congress is deemed by the commission to be such a measure for the government of the Hawaiian Islands as will best promote the interests of their people, at the same time that it promotes the interests and maintains the sovereignty of the people of the United States. In the judgment of the commission, these islands should be erected by law into a Territory of the United States, which should be styled "The Territory of Hawaii." The name now generally given to the group should be retained for the reason that it has for years borne the general name of its principal island, "Hawaii," which has become thoroughly established as a proper geographic name. The island of Hawaii is 4,210 square miles in extent, and has about two-thirds of the area of the entire group. The name has very properly, therefore, long attached to the group, and there seems to be no reason for making any change not required by the new conditions.

The name and, by inference, the general form of the new government having been determined, we found next pressing upon us the question of citizenship and its related subject, the right of suffrage. After due consideration we determined to present our formulated recommendations in section 4 of the bill as to citizenship of the United States, and in subsequent sections as to the qualifications of voters.

Section 4 of the bill provides that—

> All white persons, including Portuguese, and persons of African descent, and all persons descended from the Hawaiian race, on either the paternal or maternal side, who were citizens of the Republic of Hawaii immediately prior to the transfer of the sovereignty thereof to the United States, are hereby declared to be citizens of the United States.

The legislature, to be styled "The legislature of the Territory of Hawaii," is to consist of two houses—a senate and a house of repre-

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sentatives—to organize and sit separately, and is to be elected at a general election to be held on the Tuesday next after the first Monday in November, 1899, and biennially thereafter. The supreme court is to be the judge of the legality of election to a seat in either house in cases of contest, and the sole judge of who has been elected. No member of the legislature is to be eligible for appointment or election to any office of the Territory, and no officer or employee, notary public, or agent of the Territory shall be eligible to election as a legislator; and no person who, having been entitled to qualify and vote prior to October, 1897, and since July, 1894, failed to register as such voter, shall have a vote, unless he shall take an oath to support the Constitution of the United States.

Every officer of the Territory and every member of the legislature shall take a prescribed oath to support the Constitution and laws of the United States.

Legislators shall receive $400 for each regular session, in addition to 10 cents a mile each way as mileage, and $200 for each extra session.

In voting for representatives in the legislature, each voter may cast as many votes as there are representatives to be elected from his district, and may cast them all for one representative, or apportion them among the representatives as he shall see fit, avoiding fractional divisions of a vote.

THE SENATE.

The membership of the senate is fixed at 15, to hold office for four years, but providing that of the senators elected at the first general election 2 from the first district, 1 from the second, 3 from the third, and 1 from the fourth district shall hold for two years only. The districts are specifically described, and the following number of senators apportioned to each:

First district	4
Second district	3
Third district	6
Fourth district	2

A senator must be a male citizen of the United States, 30 years of age, have resided in the Territory three years, be the owner in his own right of $2,000 worth of property, or have during the preceding year received $1,000 income.

THE HOUSE OF REPRESENTATIVES.

The membership of the house of representatives is fixed at 30, to be elected every second year from 6 districts, composed as specified, giving the first, second, and sixth districts each 4 representatives, and the third, fourth, and fifth districts each 6 representatives.

To be eligible for election as representative a person shall have attained the age of 25 years; be a male citizen of the United States; have resided in the Territory three years, and shall either own property in the Territory worth $500 or have received a money income of not less than $250 during the preceding year.

QUALIFICATIONS FOR VOTERS FOR REPRESENTATIVES.

To be qualified to vote for representative, a person—

(1) Shall be a male citizen of the United States;

(2) Have resided in the Territory for one year preceding, and in the district three months preceding the time he offers to register;

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(3) Shall have attained the age of 21 years;
(4) Prior to the election during the time prescribed by law have caused his name to be entered on the register of voters for representative for his district;
(5) Prior to such registration have paid on or before March 31 next preceding the date of registration all taxes due by him to the government;
(6) Be able understandingly to speak, read, and write the English or Hawaiian language.

QUALIFICATIONS FOR VOTER FOR SENATORS.

To be qualified to vote for senators, a person must possess all the qualifications and be subject to all the conditions required by this act for voters for representatives, and, in addition thereto, shall own and possess in his own right real property worth $1,000, upon which valuation legal taxes shall have been paid for the year preceding that in which he offers to register, or shall have actually received a money income of not less than $600 during the year next preceding the 1st day of April next preceding the date of such registration.

REGISTRATION.

Five new boards of registration, of three members each, shall be appointed by the governor, with the advice of the senate, for terms of four years, for the five registration districts composed as specified, to take the place of the existing boards of registration. Such new registration boards shall meet to register persons entitled to vote for senators and representatives at such times between August 31 and October 10, 1899, and each second year thereafter, as may be necessary to enable them to register all persons entitled to registry. Personal appearance of an applicant is required to entitle him to registry.

The first session of the legislature shall convene at Honolulu on the third Wednesday in February, 1900.

Sessions not to continue longer than sixty days.

The offices of president, minister of foreign affairs, finance, public instruction, auditor-general, deputy auditor-general, surveyor-general, and marshal are abolished.

The bill contains provisions for the government of the Territory, giving it executive, legislative, and judicial officers. A governor, secretary of the Territory, a United States district judge, a United States district attorney, and a United States marshal are to be appointed by the President, and an internal-revenue district and a customs district are created.

The governor shall possess the veto power, and may veto specific items in bills which appropriate money for specific purposes. The two houses may override the veto by a two-thirds vote.

The legislature may create town, city, or county municipalities.

An appropriation of $5,000 is recommended to enable the United States Fish Commissioner to examine the status of the fishing rights and to report upon the fisheries of the Territory.

It also provides that foreign goods and articles imported into the islands after July 7, 1898, shall, if afterwards brought into the United States, pay the same duties charged upon like articles when imported from any foreign country.

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It also provides for the election of a Delegate to the House of Representatives in Congress, for each Congress, by the voters qualified to vote for representatives in the legislature, this Delegate to possess the same powers and privileges now accorded to other Delegates in Congress.

The existing laws of Hawaii not inconsistent with the Constitution and the laws of the United States or of this act shall continue in force, subject to repeal or amendment by the legislature of Hawaii or by Congress.

The laws of Hawaii relating to public or Government lands continue in force until changed by Congress. No leases of agricultural lands shall, however, be granted, sold, or renewed for a longer term than five years, unless Congress shall direct. The officers of the Territory shall be an attorney-general, with similar powers and duties as now possessed by the attorney-general of the Republic of Hawaii, except as changed by this act or by the legislature, and a treasurer, with similar powers and duties to the present minister of finance, and such powers and duties regarding licenses, corporations, companies, and partnerships, and registration of prints, labels, and trade-marks as are now possessed by the minister of the interior, except as changed by this act or by the legislature; also a superintendent of public works, a superintendent of public instruction, an auditor and a deputy auditor, a surveyor, with the powers and duties of a surveyor general, and a chief sheriff to succeed to the duties of marshal of the Republic, are to be appointed by the governor.

The laws of Hawaii relating to agriculture and forestry are continued in force, except as they may be modified by Congress or the legislature. The Secretary of Agriculture is charged with the duties of examining the laws of Hawaii relating to agriculture, forestry, public lands, and public roads and reporting thereon to the President.

There shall also be appointed by the governor a chief justice and two associate justices of the supreme court, the judges of the circuit court, the members of the board of health, commissioners of public instruction, prison inspectors, boards of registration, inspectors of election, and other public boards that may be created by law, and all officers whose salaries exceed $2,000 per annum.

The bill provides that the Constitution and laws of the United States locally applicable shall have the same force and effect in the Territory of Hawaii as elsewhere in the United States. This is the usual provision found in the acts of Congress providing for the establishment of Territorial governments in the United States heretofore. Such a provision is very important in this bill for many reasons, among which may be mentioned the continued importation of coolie labor into Hawaii. It has been the policy of the Government of Hawaii, before and since the establishment of the Republic, to import men under labor contracts for a term of years, at the expiration of which they are to return to the countries from which they came. Those brought in are mainly from China and Japan.

Since the act of Congress annexing Hawaii was passed prohibiting Chinese immigration the Hawaiian sugar planters have seemed to be making an unusual effort in securing the importation of Japanese laborers, fearing trouble and embarrassment on account of insufficient labor for the care and carrying on of their sugar plantations. Of course it becomes necessary to extend our labor laws over the islands, so as to prohibit all kinds of foreign contract labor from coming to the Territory, first, because it is the policy of this country to keep out all kinds of

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cheap foreign labor, including coolie labor, and thereby prevent such labor from interfering with the wages of American labor, and, secondly, to protect our manufactured products from competition with manufactured goods produced by cheap alien labor. The general laws of the United States will place the people of the Territory on the same footing with the people of the States and of other Territories of the United States in regard to foreign labor.

The question whether white labor can be profitably utilized in the sugar plantations is yet a problem; but the planters are preparing to give such labor a trial, and some of them believe it will prove superior to the labor of either Chinese or Japanese.

The majority of the commission have not been able to agree with the suggestions of those who favor the creation of a "cabinet," or "advisory council," to aid the Territorial governor in his administration of the affairs of the Territory of Hawaii. The commission hold however proper and convenient it might be to provide such an auxiliary as a "cabinet" for the governor of a State, or for the chief executive of a country, that it is unnecessary in a Territorial government, which is itself merely a subordinate and limited authority, under the close supervision of the President of the United States. The history of the Territories of the United States, covering many years of experience, has not, in the opinion of the commission, shown a necessity for the creation of any number of advisors. The powers of a Territorial governor are likely to be so clearly defined by the legislation of Congress and the laws of the Territory that there will hardly be need for such an establishment as an "executive" or "advisory" council.

The fact that such a proposition is urged by a gentleman of great experience and wisdom, who has been of the greatest service in the past history of Hawaii in behalf of order and good government, has called the most careful attention of the commission to the subject, but we are unable to see that there is a logical demand or need for such an addition to the Territorial establishment of the United States. The argument that the Territorial governor might, arbitrarily, at the close of a session of a legislature remove the heads of departments, or other officials from office and commission new ones, whose commissions would be valid until the end of the next session of the senate, or nearly two years, does not strike the commission as being a valid reason for staying the hand of a governor who is responsible directly to the President of the United States for his acts, and whose official existence is subject to the will of the President.

It is possible that the reasons presented by the minority of the commission might be deemed vital and important if the Territorial administration was sovereign and not subordinate in character. We believe, however, that if the system proposed by the bill shall in practice prove to be obnoxious to the claim of the minority it will then be ample time for Congress to change the proposed system.

Much has been said to the effect that the policy or scheme of government for the Hawaiian Islands will be taken and accepted as an index or precedent to be followed in the plan of government for Porto Rico and the Philippines. In view of this apparent expectation or belief on the part of many good people in the United States, the commission deem it proper to say that the people of Hawaii are capable of self-government, and have proven this by the establishment of the Republic of Hawaii and the adoption of a constitution and code of laws which will compare favorably with those of any other government, and under such constitution and laws have maintained a stable government for

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several years worthy of a free people. The people of those islands are more or less familiar with the institutions and laws of the United States, while the laws of the little Republic are largely taken from the laws of this country.

It can not be said that either the Porto Ricans or the Philippinos are at all familiar with our system of government, or with any other based on the principles of liberty.

The underlying theory of our Government is the right of self-government, and a people must be fitted for self-government before they can be trusted with the responsibilities and duties attaching to free government.

These remarks are made to negative the idea that because the people of the Hawaiian Islands can, in the judgment of the commission, be consistently given self-government to an extent almost equal to that given the people in the States, it can not be safely inferred that other insular possessions which the United States have, or may acquire by treaty with Spain, can be granted equal freedom in government.

In the organization of the commission, the following committees were raised to consider and report upon various matters of importance:

1. Agriculture—Mr. Dole.
2. Cables and telegraphs—Mr. Morgan and Mr. Frear.
3. Claims—Mr. Frear and Mr. Hitt.
4. Corporations—Mr. Hitt and Mr. Dole.
5. Education—Mr. Cullom, Mr. Morgan, and Mr. Frear.
6. Finance—Mr. Cullom, Mr. Morgan, Mr. Hitt, Mr. Dole, and Mr. Frear.
7. Fisheries—Mr. Frear and Mr. Morgan.
8. Harbors and coasts—Mr. Dole and Mr. Hitt.
9. Health and quarantine—Mr. Morgan and Mr. Frear.
10. Immigration and labor—Mr. Cullom, Mr. Morgan, and Mr. Dole.
11. Local taxation—Mr. Frear and Mr. Hitt.
12. Postal service—Mr. Hitt and Mr. Frear.
13. Public debt—Mr. Dole.
14. Public lands—Mr. Cullom, Mr. Morgan, and Mr. Dole.
15. Public property—Mr. Frear.
16. Tariff and internal revenue—Mr. Hitt and Mr. Dole.
17. Judiciary—Mr. Morgan and Mr. Frear.
18. Local and executive offices—Mr. Dole and Mr. Frear.
19. Committee to draft bills—Mr. Cullom, Mr. Dole, and Mr. Hitt.

The reports made by these committees in part supplied the information which has enabled the commission to prepare and agree upon the bill which is herewith presented, "To provide a government for the Territory of Hawaii," and are printed in the appendix.

The commission also presents two additional bills, the passage of which is made necessary by the existing conditions. One of these is entitled "A bill relating to Hawaiian silver coinage and silver certificates." It provides that unmutilated Hawaiian silver coins shall be received at par value in payment of all dues to the government of the Territory of Hawaii and of the United States, and shall not again be issued, but shall on presentation in sums of $500 to either government be purchased and recoined as bullion at the United States mint at San Francisco. All Hawaiian silver certificates shall be redeemed by the Territory of Hawaii on or before January 1, 1902.

The other is entitled "A bill relating to postal savings banks in Hawaii," which repeals the Hawaiian laws establishing postal savings banks, and directs the Secretary of the Treasury to pay the amounts on deposit in the postal savings banks in Hawaii to the persons entitled thereto, terminating the interest on all deposits on and after the 1st of July, 1899, and forbidding further deposits after that date.

The commission has performed the work assigned to it by the President under the joint resolution providing for the annexation of the Hawaiian Islands, and they venture to express the hope that it may be deemed satisfactory by Congress and the country.

S. M. CULLOM, *Chairman.*

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THE HAWAIIAN COMMISSION.

MINORITY REPORT.

With the exception herein stated, I substantially indorse the majority report of the commission.

It has been a matter of sincere gratification to me that its work has been upon conservative lines, and that the Hawaiian civil system—the result of sixty years of growth—has been so slightly affected by its conclusions.

I have, however, been compelled to differ from my associates in relation to certain features of the executive power of the Territory as recommended by them.

The political troubles of the Hawaiian community, culminating in the downfall of the monarchy, were mainly due to the persistent effort of successive sovereigns to acquire unlimited personal power.

Upon the organization of the Republic of Hawaii great pains were taken to eliminate the possibility of a return of such source of public danger. The experience gained in the administration of the Provisional Government was of great assistance in working out this problem.

The system adopted placed the executive power in a council of five persons, made up of the president and the heads of the four executive departments. Action by the executive council requires a majority, including the president's vote. The heads of the executive departments are the constitutional advisers of the president upon questions of public policy, appointments, and other matters of importance, and are appointed and removed by him, with the approval of the senate. The president and three members of the cabinet may remove the fourth member. The heads of the executive departments have the appointment and removal of the heads of the executive bureaus in their respective departments, subject to the approval of the president. The heads of the bureaus have the appointment and removal of their subordinate officers, subject to the approval of the heads of the departments to which their respective bureaus belong.

It was considered impracticable to hold an executive officer responsible for the successful administration of his department or bureau without giving him substantially the selection of his immediate subordinates.

This system has worked satisfactorily, giving the government the confidence of the public.

While, with some misgivings, I have assented to the provisions of the majority report, which place the executive power of the Territory in the hands of one individual and do away with the executive council, I am unable to accept those which confer upon the governor the appointment of all subordinate officers, and which, while giving him the appointment of heads of departments, with the approval of the senate, permit him to remove them without such approval, a power not enjoyed by the President of the United States. Nor can I agree to the absence

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of any provisions whatever limiting or checking the governor's executive power under the laws, excepting as to the approval of the senate required in certain appointments.

The weight of these objections will be better understood in view of the recommendation of the commissioners that the legislature shall hold regular sessions but once in two years as heretofore, which circumstance would furnish the governor with the opportunity, if he should choose to utilize it, of removing any or all heads of departments immediately after the termination of the regular session of the legislature and filling their places with persons whose commissions would be valid until the end of the next session of the senate, which might not occur for nearly two years. By this means a governor, acting within his authority, could substantially evade the provision requiring these appointments to be approved by the senate.

Performances of like character under the monarchy are too fresh in the minds of the Hawaiian community to permit them to contemplate without dismay the possibility of a repetition thereof.

The governor, under the provisions of the act recommended by the commission, will have less check to his administration of affairs than was the case with the sovereigns under the monarchy, excepting only in the matter of tenure of office. Moreover, the features of the existing Hawaiian civil system, which compel a certain amount of publicity in all administrative acts, are swept away, and the governor may act in absolute secrecy, or, if he shall be so inclined, with the advice and under the influence of any persons he may choose to admit to his deliberations.

This feature of the proposed executive status, it will be seen, might expose the governor to influences hostile to the public good, and possibly to great and constantly recurring temptations to subordinate public to private interests.

The provision of the Hawaiian system which compels the president to consult his constitutional advisers lessens this danger.

Besides, this beneficial result of the existing system is the safeguard that it guarantees to the administration of public affairs through the diminished liability of the best of men to make mistakes when assisted by the judgment of others.

Hawaiian administration of affairs includes the conduct of a land system which provides for the disposal of the public lands in different ways and in areas varying in extent and often of great value, which are sometimes so situated as to be of pronounced importance to the public interests of agriculture and forestry.

It is submitted that it is most desirable that the consideration of these questions should not be left to the private judgment of one man, unassisted save perhaps by the pressing demands of capitalists and corporations.

For these reasons I recommend that the bill reported by the Hawaiian Commission be amended by the addition of the following paragraph, to wit:

"AMENDMENT.

"SEC. —. The treasurer, attorney-general, superintendent of public instruction, commissioner of public lands, commissioner of agriculture and forestry, and superintendent of public works may be removed by the governor, with the advice and consent of the senate.

"The governor shall appoint the subordinate officers of the said respective heads of departments, but only on the nomination of the

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heads of those departments to which said subordinate officers respectively belong.

"The said heads of departments shall be the special counselors of the governor, and shall be consulted by him concerning all matters of public policy, disposition of public lands, appointments to office, and other matters of importance concerning which action is contemplated; but the governor shall not be bound to follow their advice."

Or, as an alternative proposition to the last paragraph:

"The treasurer, attorney-general, superintendent of public works, and commissioner of public lands shall be the special counselors of the governor, and shall be consulted by him concerning all matters of public policy, disposition of public lands, appointments to office, and other matters of importance concerning which action is contemplated; but the governor shall not be bound to follow their advice."

SANFORD B. DOLE.

HONOLULU, HAWAIIAN ISLANDS, *November 9, 1898.*

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A BILL to provide a government for the Territory of Hawaii.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

CHAPTER I.—GENERAL PROVISIONS.

DEFINITIONS.

SECTION 1. That the phrase "the laws of Hawaii," as used in this act without qualifying words, shall mean the constitution and laws of the Republic of Hawaii, including regulations having the effect of law and the decisions of the supreme court in force immediately prior to the transfer of the sovereignty of the Hawaiian Islands to the United States of America.

The constitution and statute laws of the Republic of Hawaii then in force, set forth in a compilation made by Sidney M. Ballou under the authority of the legislature, and published in two volumes entitled "Civil Laws" and "Penal Laws," respectively, and in the "Session Laws of the Legislature for the session of eighteen hundred and ninety-eight," are referred to in this act as "Civil Laws," "Penal Laws," and "Session Laws."

TERRITORY OF HAWAII.

SEC. 2. That the islands acquired by the United States of America under an act of Congress entitled "Joint resolution to provide for annexing the Hawaiian Islands to the United States," approved July seventh, eighteen hundred and ninety-eight, shall be known as the Territory of Hawaii.

GOVERNMENT OF THE TERRITORY OF HAWAII.

SEC. 3. That a Territorial government, to be known as the "Government of Hawaii," is hereby established over the said Territory, with its capital at Honolulu, on the island of Oahu.

CITIZENSHIP.

SEC. 4. That all white persons, including Portuguese, and persons of African descent, and all persons descended from the Hawaiian race on either the paternal or maternal side who were citizens of the Republic of Hawaii immediately prior to the transfer of the sovereignty thereof to the United States, are hereby declared to be citizens of the United States.

APPLICATION OF THE LAWS OF THE UNITED STATES.

SEC. 5. That the Constitution and all the laws of the United States locally applicable, except as herein otherwise provided, shall have the same force and effect within the said Territory as elsewhere in the

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United States: *Provided*, That sections eighteen hundred and fifty and eighteen hundred and ninety of the Revised Statutes of the United States shall not apply to the Territory of Hawaii.

LAWS OF HAWAII.

SEC. 6. That the laws of Hawaii, not inconsistent with the Constitution or laws of the United States or the provisions of this act, shall continue in force, subject to repeal or amendment by the legislature of Hawaii or the Congress of the United States.

SEC. 7. That the constitution of the Republic of Hawaii and the laws of Hawaii set forth in the following acts, chapters, and sections of the civil laws, penal laws, and session laws, and relating to the following subjects, are hereby repealed:

CIVIL LAWS: Sections two and three, Promulgation of laws; chapter five, Flag and seal; sections thirty to thirty-three, Tenders for supplies; chapter seven, Minister of foreign affairs; chapter eight, Diplomatic and consular agents; sections one hundred and thirty-four and one hundred and thirty-five, National museum; chapter twelve, Education of Hawaiian youths abroad; sections one hundred and fifty to one hundred and fifty-six, Aid to board of education; chapter fourteen, Minister of the interior; sections one hundred and sixty-six to one hundred and sixty-eight, one hundred and seventy-four, and one hundred and seventy-five, Government lands; section one hundred and ninety, Board of commissioners of public lands; section four hundred and twenty-four, Bureau of agriculture and forestry; chapter thirty-one, agriculture and manufactures; chapter thirty-two, Ramie; chapter thirty-three, Taro flour; chapter thirty-four, Development of resources; chapter thirty-five, Agriculture; section four hundred and seventy-seven, Brands; chapter thirty-seven, Patents; chapter thirty-eight, Copyrights; sections five hundred and fifty-six and five hundred and fifty-seven, Railroad subsidy; chapter forty-seven, Pacific cable; chapter forty-eight, Hospitals; chapter fifty-one, Coins and currency; chapter fifty-four, Consolidation of public debt; chapter fifty-six, Post-office; chapter fifty-seven, Exemptions from postage; chapter fifty-eight, Postal savings bank; chapter sixty-two, Income tax; chapter sixty-five, Import duties; chapter sixty-six, Imports; chapter sixty-seven, Ports of entry and collection districts; chapter sixty-eight, Collectors; chapter sixty-nine, Registry of vessels; section ten hundred and eleven, Custom-house charges; section eleven hundred and two, Elections; section eleven hundred and thirty-two, Appointment of magistrate; last clause of first subdivision and fifth subdivision of section eleven hundred and forty-four, first subdivision of section eleven hundred and forty-five, Jurisdiction; sections eleven hundred and seventy-three to eleven hundred and seventy-eight, Translation of decisions; section eleven hundred and eighty-eight, Clerks of court; sections thirteen hundred and twenty-nine, thirteen hundred and thirty-one, thirteen hundred and thirty-two, thirteen hundred and forty-seven to thirteen hundred and fifty-four, juries; sections fifteen hundred and nine to fifteen hundred and fourteen, Maritime matters; chapter one hundred and two, Naturalization; section sixteen hundred and seventy-eight, Habeas corpus; chapter one hundred and eight, Arrest of debtors; subdivisions six, seven, ten, twelve to fourteen of section seventeen hundred and thirty-six, Garnishment; sections seventeen hundred and fifty-five to seventeen hundred and fifty-eight, Liens on vessels; and sections eighteen hundred and twenty-eight to eighteen hundred and thirty-two, Water rights.

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PENAL LAWS: Chapter six, Treason; sections sixty-five to sixty-seven, Foot binding; chapter seventeen, Violation of postal laws; section three hundred and fourteen, Blasphemy; sections three hundred and seventy-one to three hundred and seventy-two, Vagrants; sections four hundred and eleven to four hundred and thirteen, Manufacture of liquors; chapter forty-three, Offenses on the high seas and other waters; sections five hundred and ninety-five and six hundred and two to six hundred and five, Jurisdiction; section six hundred and twenty-three, Procedure; sections seven hundred and seven hundred and one, Imports; section seven hundred and fifteen, Auction license; section seven hundred and forty-five, Commercial travelers; sections seven hundred and forty-eight to seven hundred and fifty-five, Firearms; sections seven hundred and ninety-six to eight hundred and nine, Coasting trade; sections eight hundred and eleven and eight hundred and twelve, Peddling foreign goods; sections eight hundred and thirteen to eight hundred and fifteen, Importation of live stock; section eight hundred and nineteen, Imports; sections eight hundred and eighty-six to nine hundred and six, Quarantine; section eleven hundred and thirty-seven, Consuls and consular agents; chapter sixty-seven, Whale ships; sections eleven hundred and forty-five to eleven hundred and seventy-nine and twelve hundred and four to twelve hundred and nine, Arrival, entry, and departure of vessels; chapters sixty-nine to seventy-six, Navigation and other matters within the exclusive jurisdiction of the United States; sections thirteen hundred and forty-seven and thirteen hundred and forty-eight, Fraudulent exportation; chapter seventy-eight, Masters and servants; chapter ninety-three, Immigration; sections sixteen hundred and one, sixteen hundred and eight, and sixteen hundred and twelve, Agriculture and forestry; chapter ninety-six, Seditious offenses, and chapter ninety-nine, Sailing regulations.

SESSION LAWS: Act fifteen, Elections; act twenty-six, Duties; act twenty-seven, Exemptions from duties; act thirty-two, Registry of vessels; section four of act thirty eight, Importation of live stock; act forty-eight, Pacific cable; act sixty-five, Consolidation of public debt; act sixty-six, Ports of entry, and act sixty-eight, Chinese immigration.

CERTAIN OFFICES ABOLISHED.

SEC. 8. That the offices of President, minister of foreign affairs, minister of the interior, minister of finance, minister of public instruction, auditor-general, deputy auditor-general, surveyor-general, marshal, and deputy marshal of the Republic of Hawaii are hereby abolished.

AMENDMENT OF OFFICIAL TITLES.

SEC. 9. That wherever the words "President of the Republic of Hawaii," or "Republic of Hawaii," or "Government of the Republic of Hawaii," or their equivalents, occur in the laws of Hawaii, they are hereby amended to read "governor of the Territory of Hawaii," or "Territory of Hawaii," or "Government of Hawaii," or their equivalents, as the context requires.

CONSTRUCTION OF EXISTING STATUTES.

SEC. 10. That all obligations, contracts, actions, prosecutions, and judgments existing and valid prior to the taking effect of this act shall continue to be as effectual as if this act had not been passed, and those

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in favor of or against the Republic of Hawaii, and not assumed by or transferred to the United States, shall be equally valid in favor of or against the government of Hawaii. All offenses which by statute then in force were punishable as offenses against the Republic of Hawaii shall be punishable as offenses against the government of Hawaii, unless such statute is inconsistent with this act or shall be repealed or changed by law. All criminal and penal proceedings then pending in the courts of the Republic of Hawaii shall be prosecuted to final judgment and execution in the name of the government of Hawaii; all such proceedings, all actions at law, suits in equity, and other proceedings then pending in the courts of the Republic of Hawaii shall be carried on to final judgment and execution in the corresponding courts of the government of Hawaii, and all process issued and sentences imposed before this act takes effect shall be as valid as if issued or imposed in the name of the government of Hawaii.

STYLE OF PROCESS.

SEC. 11. That the style of all process shall be "The government of Hawaii," and all prosecutions shall be carried on in the name and by the authority of the government of Hawaii.

CHAPTER II.—THE LEGISLATURE.

THE LEGISLATIVE POWER.

SEC. 12. That the legislature of the Territory of Hawaii shall consist of two houses, styled the senate and house of representatives, which shall organize and sit separately, except as otherwise herein provided. The two houses shall be styled "The legislature of the Territory of Hawaii."

SEC. 13. That no person shall sit as a senator or representative in the legislature unless elected under and in conformity with this act.

GENERAL ELECTIONS.

SEC. 14. That a general election shall be held on the Tuesday next after the first Monday in November, eighteen hundred and ninety-nine, and every second year thereafter.

SUPREME COURT JUDGE OF QUALIFICATIONS OF MEMBERS.

SEC. 15. That in case any election to a seat in either house is disputed and legally contested, the supreme court shall be the sole judge of whether or not a legal election for such seat has been held; and, if it shall find that a legal election has been held, it shall be the sole judge of who has been elected.

DISQUALIFICATIONS OF LEGISLATORS.

SEC. 16. That no member of the legislature shall, during the term for which he is elected, be appointed by the governor or elected to any office of the government of Hawaii.

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DISQUALIFICATIONS OF GOVERNMENT OFFICERS AND EMPLOYEES.

SEC. 17. That no person holding office in, or under, or by authority of, the government, including notaries public and agents to take acknowledgments, nor any employee of said government, shall be eligible to election to the legislature or to hold the position of a member of the same while holding said office, nor shall any person be entitled to vote at any general election in the Territory of Hawaii prior to nineteen hundred and three, who, having been entitled to qualify and vote under the constitution and laws of Hawaii prior to October, eighteen hundred and ninety-seven, and since July, eighteen hundred and ninety-four, failed to register as such voter, unless he shall take an oath to support the Constitution of the United States. But this disqualification shall not apply to any person so entitled to a vote at a general election who was prevented from registering as a voter by reason of sickness or necessary absence from the Hawaiian Islands.

DISQUALIFICATION OF CERTAIN CLASSES.

SEC. 18. That no idiot or insane person, and no person who shall be expelled from the legislature for giving or receiving bribes or being accessory thereto, and no person who, in due course of law, shall have been convicted of larceny, bribery, gross cheat, or of any criminal offense punishable by imprisonment, whether with or without hard labor, for a term exceeding two years, whether with or without fine, shall register to vote or shall vote or hold any office in, or under, or by authority of, the government, unless the person so convicted shall have been pardoned and restored to his civil rights.

OATH OF OFFICE.

SEC. 19. That every member of the legislature, and all officers of the government of Hawaii, shall take the following oath or affirmation:

I solemnly swear (or affirm), in the presence of Almighty God, that I will faithfully support the Constitution and laws of the United States, and conscientiously and impartially discharge my duties as a member of the legislature, or as an officer of the government of Hawaii (as the case may be).

OFFICERS AND RULES.

SEC. 20. That the senate and house of representatives shall each choose its own officers, determine the rules of its own proceedings, not inconsistent with this act, and keep a journal.

AYES AND NOES.

SEC. 21. That the ayes and noes of the members on any question shall, at the desire of one-third of the members present, be entered on the journal.

QUORUM.

SEC. 22. That a majority of the number of members to which each house is entitled shall constitute a quorum of such house for the conduct of ordinary business, of which quorum a majority vote shall suffice; but the final passage of a law in each house shall require the vote of a majority of all the members to which such house is entitled.

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SEC. 23. That a smaller number than a quorum may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house may provide.

SEC. 24. That for the purpose of ascertaining whether there is a quorum present, the chairman shall count the number of members present.

PUNISHMENT OF PERSONS NOT MEMBERS.

SEC. 25. That each house may punish by fine, or by imprisonment not exceeding thirty days, any person not a member of either house who shall be guilty of disrespect of such house by any disorderly or contemptuous behavior in its presence; or

Who shall, on account of the exercise of any legislative function, threaten harm to the body or estate of any of the members of such house; or

Who shall assault, arrest, or detain any witness or other person ordered to attend such house, on his way going to or returning therefrom; or

Who shall rescue any person arrested by order of such house.

But the person charged with the offense shall be informed, in writing, of the charge made against him, and have an opportunity to present evidence and be heard in his own defense.

COMPENSATION OF MEMBERS.

SEC. 26. That the members of the legislature shall receive for their services, in addition to mileage at the rate of ten cents a mile each way, the sum of four hundred dollars for each regular session of the legislature, payable in three equal installments on and after the first, thirtieth, and fiftieth days of the session, and the sum of two hundred dollars for each extra session of the legislature.

PUNISHMENT OF MEMBERS.

SEC. 27. That each house may punish its own members for disorderly behavior or neglect of duty, by censure, suspension, or expulsion.

EXEMPTION FROM LIABILITY.

SEC. 28. That no member of the legislature shall be held to answer before any other tribunal for any words uttered in the exercise of his legislative functions in either house.

EXEMPTION FROM ARREST.

SEC. 29. That the members of the legislature shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at the sessions of the respective houses; and in going to and returning from the same: *Provided*, That such privilege as to going and returning shall not cover a period of over ten days each way.

THE SENATE.

NUMBER OF MEMBERS.

SEC. 30. That the senate shall be composed of fifteen members, who shall hold office for four years: *Provided, however*, That of the senators

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elected at the first general election, two from the first district, one from the second, three from the third, and one from the fourth district shall hold office for two years only, the details of such apportionment to be provided for by the legislature.

VACANCIES.

SEC. 31. That vacancies caused by death, resignation, or otherwise shall be filled for the unexpired term at special elections.

SENATORIAL DISTRICTS.

SEC. 32. That for the purpose of representation in the Senate, until otherwise provided by law, the Territory is divided into the following senatorial districts, viz:

First district: The island of Hawaii.

Second district: The islands of Maui, Molokai, Lanai, and Kahoolawe.

Third district: The island of Oahu.

Fourth district: The islands of Kauai and Niihau.

SEC. 33. That the electors in the said districts shall be entitled to elect senators as follows:

In the first district, four;

In the second district, three;

In the third district, six;

In the fourth district, two.

QUALIFICATIONS OF SENATORS.

SEC. 34. That in order to be eligible to election as a senator, a person shall:

Be a male citizen of the United States;

Have attained the age of thirty years;

Have resided in the Hawaiian Islands not less than three years; be the owner, in his own right, of property in the Territory of the value of not less than two thousand dollars; or have been in receipt of a money income of not less than one thousand dollars during the year immediately preceding the date of the election.

THE HOUSE OF REPRESENTATIVES.

NUMBER OF REPRESENTATIVES.

SEC. 35. That the house of representatives shall be composed of thirty members, elected, except as herein provided, every second year.

TERM OF OFFICE.

SEC. 36. That the term of office of the representatives elected at any general or special election shall be until the next general election held thereafter.

VACANCIES.

SEC. 37. That vacancies caused by death, resignation, or otherwise shall be filled for the unexpired term at special elections.

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REPRESENTATIVE DISTRICTS.

SEC. 38. That, for the purpose of representation in the house of representatives until otherwise provided by law, the Territory is divided into the following representative districts, namely:

First district: That portion of the island of Hawaii known as Puna, Hilo, and Hamakua.

Second district: That portion of the island of Hawaii known as Kau, Kona, and Kohala.

Third district: The islands of Maui, Molokai, Lanai, and Kahoolawe.

Fourth district: That portion of the island of Oahu lying east and south of Nuuanu street and a line drawn in extension thereof from the Nuuanu Pali to Mokapu Point.

Fifth district: That portion of the island of Oahu lying west and north of the fourth district.

Sixth district: The islands of Kauai and Niihau.

APPORTIONMENT.

SEC. 39. That the electors in the said districts shall be entitled to elect representatives as follows:

In the first district, four;
In the second district, four;
In the third district, six;
In the fourth district, six;
In the fifth district, six;
In the sixth district, four.

QUALIFICATIONS OF REPRESENTATIVES.

SEC. 40. That, in order to be eligible to be a member of the house of representatives, a person shall, at the time of election:

Have attained the age of twenty-five years;
Be a male citizen of the United States;
Have resided in the Hawaiian Islands not less than three years;
And shall either own property in the Territory worth not less than five hundred dollars or have received a money income of not less than two hundred and fifty dollars during the twelve months immediately preceding the date of election.

LEGISLATION.

SESSIONS OF THE LEGISLATURE.

SEC. 41. That the first regular session of the legislature shall be held on the third Wednesday in February, nineteen hundred, and biennially thereafter, in Honolulu.

SEC. 42. That neither house shall adjourn during any session for more than three days, or sine die, without the consent of the other.

SEC. 43. That if either house shall so adjourn without the consent of the other, the other house may proceed to legislate as though it were the sole legislative body, and may exercise the full powers of the legislature.

SEC. 44. That each session of the legislature shall continue not longer than sixty days, excluding Sundays and holidays: *Provided, however*, That the governor may extend such session for not more than thirty days.

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The governor may convene the legislature, or the senate alone, in special session; and in case the seat of government shall be unsafe from an enemy, riot, or insurrection, or any dangerous disease, direct that any regular or special session shall be held at some other than the regular meeting place.

ENACTING CLAUSE—ENGLISH LANGUAGE.

SEC. 45. That the enacting clause of all laws shall be, "Be it enacted by the legislature of the Territory of Hawaii."

All legislative proceedings shall be conducted in the English language.

INTRODUCTION OF BILLS.

SEC. 46. That no bill shall be introduced into either house by any member of such house unless it shall have first received thereon the written indorsement of three members of such house.

TITLE OF LAWS.

SEC. 47. That each law shall embrace but one subject, which shall be expressed in its title.

READINGS OF BILLS.

SEC. 48. That a bill in order to become a law shall, except as herein provided, pass three readings in each house, the final passage of which in each house shall be by a majority vote of all the members to which such house is entitled, taken by ayes and noes and entered upon its journal.

CERTIFICATION OF BILLS FROM ONE HOUSE TO THE OTHER.

SEC. 49. That every bill when passed by the house in which it originated, or in which amendments thereto shall have originated, shall immediately be certified by the chairman and clerk and sent to the other house for consideration.

SIGNING BILLS.

SEC. 50. That, except as herein provided, all bills passed by the legislature shall, in order to be valid, be signed by the governor.

VETO OF GOVERNOR.

SEC. 51. That every bill which shall have passed the legislature shall be certified by the chairman and clerk of the house last considering it, and shall thereupon be presented to the governor. If he approves it he shall sign it and it shall become a law. If the governor does not approve such bill, he may return it, with his objections, to the legislature.

He may veto any specific item or items in any bill which appropriates money for specific purposes; but shall veto other bills, if at all, only as a whole.

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PROCEDURE UPON RECEIPT OF VETO.

SEC. 52. That upon the receipt of a veto message from the governor, each house of the legislature shall enter the same at large upon its journal, and proceed to reconsider such bill, or part of a bill, and again vote upon it by ayes and noes, which shall be entered upon its journal.

If after such reconsideration such bill, or part of a bill, shall be approved by a two-thirds vote of all the members to which each house is entitled, it shall thereby become law.

FAILURE TO SIGN OR VETO.

SEC. 53. That if the governor neither signs nor vetoes a bill within ten days after it is delivered to him, it shall become law without his signature, unless the legislature adjourns sine die prior to the expiration of such ten days.

In computing such period of ten days Sundays and the day upon which the bill is delivered to the governor shall be excluded.

APPROPRIATIONS.

SEC. 54. That appropriations, except as otherwise herein provided, shall be made biennially by the legislature.

SEC. 55. That the governor shall submit to the senate, at each regular session of the legislature, estimates for appropriations for the succeeding biennial period.

SEC. 56. That in case of failure of the legislature to pass appropriation bills providing for payments of the necessary current expenses of carrying on the government and meeting its legal obligations as the same are provided for by the then existing laws, the governor shall, upon the adjournment of the legislature, call it in extra session for the consideration of appropriation bills, and until the legislature shall have acted the treasurer may, with the advice of the governor, make such payments, for which purpose the sums appropriated in the last appropriation bill shall be deemed to have been reappropriated.

LEGISLATIVE POWER.

SEC. 57. That the legislative power of the Territory shall extend to all rightful subjects of legislation not inconsistent with the Constitution and laws of the United States, locally applicable, and the provisions of this act, but the legislature shall not grant to any corporation, association, or individual any special or exclusive privilege, immunity, or franchise without the approval of Congress; nor shall it grant private charters, but it may by general act permit persons to associate themselves together as bodies corporate for manufacturing, agricultural, and other industrial pursuits, and for conducting the business of insurance, savings banks, banks of discount and deposit (but not of issue), loan, trust, and guarantee associations, for the establishment and conduct of cemeteries, and for the construction and operation of railroads, wagon roads, vessels, and irrigating ditches, and the colonization and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any other benevolent, charitable, or scientific association; nor shall any divorce be granted in the Territory unless the applicant therefor shall have resided in the Territory for one year next preceding the application, but this provision shall not affect any action pending

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when this act takes effect; nor shall any lottery or sale of lottery tickets be allowed; nor shall any public money be appropriated for the support or benefit of any sectarian, denominational, or private school, or any school not under the exclusive control of the government; nor shall the government of Hawaii, or any political or municipal corporation or subdivision of the Territory, make any subscription to the capital stock of any incorporated company or in any manner loan its credit for the use thereof; nor shall any debt be authorized to be contracted by or on behalf of the Territory, or any political or municipal corporation or subdivision thereof, except to meet a casual deficit in the revenues, to pay the interest upon the existing indebtedness, to suppress insurrection, or to provide for the common defense, except that in addition to any indebtedness created for such purposes the legislature may authorize loans by the Territory, or any such subdivision thereof, for the erection of penal, charitable, and educational institutions, and for public buildings, wharves, roads, and harbor, and other public improvements, but the total of such indebtedness incurred in any one year by the Territory or any subdivision shall not exceed one per centum upon the assessed value of taxable property of the Territory or subdivision thereof, as the case may be, as shown by the last general assessment for taxation, and the total indebtedness for the Territory shall not at any time be extended beyond seven per centum of such assessed value, and the total indebtedness of any subdivision shall not at any time be extended beyond three per centum of such assessed value, but nothing in this provision shall prevent the refunding of any existing indebtedness at any time; nor shall any such loan be made upon the credit of the public domain or any part thereof. No retrospective law shall be enacted.

TOWN, CITY, AND COUNTY GOVERNMENT.

SEC. 58. That the legislature may create town, city, and county municipalities within the Territory of Hawaii and provide for the government thereof.

ELECTIONS.

EXEMPTION OF ELECTORS ON ELECTION DAY.

SEC. 59. That every elector shall be privileged from arrest on election day during his attendance at election and in going to and returning therefrom, except in case of breach of the peace then committed, or in case of treason or felony.

SEC. 60. That no elector shall be so obliged to perform military duty on the day of election as to prevent his voting, except in time of war or public danger, or in case of absence from his place of residence in actual military service, in which case provision may be made by law for taking his vote.

METHOD OF VOTING FOR REPRESENTATIVES.

SEC. 61. That each voter for representatives may cast as many votes as there are representatives to be elected from the representative district in which he is entitled to vote. He may cast them all for one representative, or may apportion them among the several representatives in such manner as he sees fit: *Provided, however*, That any fractional division of a vote shall be void.

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The required number of candidates receiving the highest number of votes in the respective representative districts shall be the representatives for such districts.

QUALIFICATIONS OF VOTERS FOR REPRESENTATIVES.

SEC. 62. That in order to be qualified to vote for representatives a person shall—

First. Be a male citizen of the United States.

Second. Have resided in the Territory not less than one year preceding and in the representative district in which he offers to register not less than three months immediately preceding the time at which he offers to register.

Third. Have attained the age of twenty-one years.

Fourth. Prior to each regular election, during the time prescribed by law for registration, have caused his name to be entered on the register of voters for representatives for his district.

Fifth. Prior to such registration have paid, on or before the thirty-first day of March next preceding the date of registration, all taxes due by him to the government.

Sixth. Be able understandingly to speak, read, and write the English or Hawaiian language.

METHOD OF VOTING FOR SENATORS.

SEC. 63. That each voter for senators may cast one vote only for each senator to be elected from the senatorial district in which he is entitled to vote.

The required number of candidates receiving the highest number of votes in the respective senatorial districts shall be the senators for such district.

QUALIFICATIONS OF VOTERS FOR SENATORS.

SEC. 64. That in order to be qualified to vote for senators a person must possess all the qualifications and be subject to all the conditions required by this act of voters for representatives, and, in addition thereto, he shall own and be possessed in his own right of real property in the Territory of the value of not less than one thousand dollars, and upon which legal taxes shall have been paid on that valuation for the year next preceding the one in which such person offers to register; or shall have actually received a money income of not less than six hundred dollars during the year next preceding the first day of April next preceding the date of each registration.

SEC. 65. That no person shall be allowed to vote who is in the Territory by reason of being in the Army or Navy or attached to troops in the service of the United States.

SEC. 66. That the rules and regulations for administering oaths and holding elections set forth in Ballou's Compilation, Civil Laws, Appendix, and the list of registering districts and precincts appended are continued in force with the following changes, to wit:

Strike out the preliminary proclamation and sections one to twenty-six inclusive, sections thirty and thirty-nine, the second and third paragraphs of section forty eight, the second paragraph of section fifty, and sections sixty-two, sixty-three, and sixty-six.

In section twenty-nine strike out all after the word "Niihau" and in lieu thereof insert: "The boards of registration existing at the date of

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the approval of this act shall go out of office, and new boards, which shall consist of three members each, shall be appointed by the governor, by and with the advice and consent of the senate, whose terms of office shall be four years. Appointments made by the governor when the senate is not in session shall be valid until the succeeding meeting of that body."

In section thirty-one strike out "the first day of April and the thirtieth day of June, in the year eighteen hundred and ninety-seven," and insert in lieu thereof "the last day of August and the tenth day of October, in the year eighteen hundred and ninety-nine."

Strike out the words "and the detailed record" in sections fifty-two and one hundred and twelve.

Strike out "marshal" wherever it occurs and insert in lieu thereof "chief sheriff."

Strike out of section fifty-three the words "except as provided in section one hundred and fourteen hereof."

In sections fifty-three, fifty-four, fifty-six, fifty-seven, fifty-nine, sixty, seventy-one, seventy-five, eighty-six, ninety-two, ninety-three, ninety-four, ninety-five, one hundred and eleven, one hundred and twelve, and one hundred and thirteen strike out the words "minister" and "minister of the interior" wherever they occur, and insert in lieu thereof the words "secretary of the Territory."

In section fifty-six, paragraph three, strike out "interior office" and insert "office of the secretary of the Territory."

In section fifty-six, first paragraph, after the words "candidate for election" insert "to the legislature;" and in the last paragraph strike out the word "only."

Strike out the word "elective" in section sixty-four.

In sections twenty-seven, sixty-four, sixty-five, sixty-eight, seventy, and seventy-two strike out the words "minister of the interior" or "minister" wherever they occur and insert in lieu thereof the word "governor."

Amend section sixty-seven so that it will read: "At least forty days before any election the governor shall issue an election proclamation and transmit copies of the same to the several boards of inspectors throughout the Territory or where such election is to be held."

In section seventy-five strike out the word "perfectly," and in section seventy-six strike out "in" and insert "on."

In section one hundred and twelve strike out "interior department" and insert in lieu thereof "office of the secretary of the Territory."

In section one hundred and fourteen strike out the word "Republic" wherever it occurs and insert in lieu thereof "Territory."

In section one hundred and fifteen strike out the words "minister" and "minister of the interior" and insert in lieu thereof "treasurer," and strike out all after the word "refreshments."

SEC. 67. That the legislature of the Territory may from time to time establish and alter the boundaries of election districts and voting precincts and apportion the senators and representatives to be elected from such districts.

CHAPTER 3.—THE EXECUTIVE.

THE EXECUTIVE POWER.

SEC. 68. That the executive power of the government of Hawaii shall be vested in a governor, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold

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office for four years and until his successor shall be appointed and qualified, unless sooner removed by the President. He shall be not less than thirty-five years of age; shall reside within the Territory; shall be commander in chief of the militia thereof; may grant pardons or reprieves for offenses against the laws of the said Territory, and reprieves for offenses against the laws of the United States until the decision of the President is made known thereon.

ENFORCEMENT OF LAW.

SEC. 69. That the governor shall be responsible for the faithful execution of the laws of the United States and of the Territory of Hawaii within the said Territory, and whenever it becomes necessary he may call upon the commanders of the military and naval forces of the United States in the Territory of Hawaii, or summon the posse comitatus, or call out the militia of the Territory to prevent or suppress lawless violence, invasion, insurrection, or rebellion in said Territory, and he may, in case of rebellion or invasion, or imminent danger thereof, when the public safety requires it, suspend the privilege of the writ of habeas corpus, or place the Territory, or any part thereof, under martial law.

GENERAL POWERS OF THE GOVERNOR.

SEC. 70. That all the powers and duties which by the laws of Hawaii are conferred upon or required of the President or any minister of the Republic of Hawaii (acting alone or in connection with any other officer or person or body) or the cabinet or executive council, and not inconsistent with the Constitution or laws of the United States, are conferred upon and required of the governor of the Territory of Hawaii, unless otherwise provided.

SECRETARY OF THE TERRITORY.

SEC. 71. That there shall be a secretary of the said Territory, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall reside therein and hold his office for four years and until his successor shall be appointed and qualified, unless sooner removed by the President. He shall record and preserve all the laws and proceedings of the legislature, and all acts and proceedings of the governor, and promulgate proclamations of the governor. He shall, within thirty days after the end of each session of the legislature, transmit to the President, the President of the Senate, and the Speaker of the House of Representatives of the United States one copy each of the laws and journals of such session. He shall transmit to the President, semiannually, on the first days of January and July, a copy of the executive proceedings, and shall perform such other duties as are prescribed in this act or as may be required of him by the legislature of Hawaii.

ACTING GOVERNOR IN CERTAIN CONTINGENCIES.

SEC. 72. That in case of the death, removal, resignation, or disability of the governor, or his absence from the Territory, the secretary shall exercise all the powers and perform all the duties of governor during such vacancy, disability, or absence, or until another governor is appointed and qualified.

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ATTORNEY-GENERAL.

SEC. 73. That there shall be an attorney-general, who shall have the powers and duties of the attorney-general and those of the powers and duties of the minister of the interior which relate to prisons, prisoners, and prison inspectors, notaries public, and escheat of lands under the laws of Hawaii, except as changed by this act and subject to modification by the legislature.

TREASURER.

SEC. 74. That there shall be a treasurer, who shall have the powers and duties of the minister of finance and those of the powers and duties of the minister of the interior which relate to licenses, corporations, companies, and partnerships, business conducted by married women, newspapers, registry of conveyances, and registration of prints, labels, and trade-marks under the laws of Hawaii, except as changed in this act and subject to modification by the legislature.

COMMISSIONER OF PUBLIC LANDS.

SEC. 75. That the laws of Hawaii relating to public lands, the settlement of boundaries, and the issuance of patents on land commission awards, except as changed by this act, shall continue in force until Congress shall otherwise provide. In said laws "land patent" shall be substituted for "royal patent;" "commissioner of public lands" for "minister of the interior," "agent of public lands," and "commissioners of public lands," or their equivalents, and the words "that I am a citizen of the United States (or that I have declared my intention to become a citizen of the United States as required by law)" for the words "that I am a citizen by birth (or naturalization) of the Republic of Hawaii (or that I have received letters of denization under the Republic of Hawaii, or that I have received a certificate of special right of citizenship from the Republic of Hawaii)." And no lease of agricultural land shall be granted, sold, or renewed by the government of Hawaii for a longer period than five years, until Congress shall otherwise direct. All funds arising from the sale or lease or other disposal of such lands shall be appropriated by the laws of the government of Hawaii and applied to such uses and purposes for the benefit of the inhabitants of the Territory of Hawaii as are consistent with the joint resolution of annexation approved July seventh, eighteen hundred and ninety-eight.

COMMISSIONER OF AGRICULTURE AND FORESTRY.

SEC. 76. That the laws of Hawaii relating to agriculture and forestry, except as changed by this act, shall continue in force, subject to modification by Congress or the legislature. In said laws "commissioner of agriculture and forestry" shall be substituted respectively for "bureau," "bureau of agriculture and forestry," "commissioner," "commissioners of agriculture," and "commissioners for the Island of Oahu."

INVESTIGATION OF LAND LAWS.

SEC. 77. That the sum of fifteen thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available, to

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enable the Secretary of Agriculture to examine the laws of Hawaii relating to public lands, agriculture, and forestry, the proceedings thereunder, and all matters relating to public lands, forests, agriculture, and public roads bearing upon the prosperity of the Territory, and to report thereon to the President of the United States, which duties shall be performed with all convenient speed.

SUPERINTENDENT OF PUBLIC WORKS.

SEC. 78. There shall be a superintendent of public works, who shall have the powers and duties of the superintendent of public works and those of the powers and duties of the minister of the interior which relate to streets and highways, harbor improvements, wharves, landings, waterworks, railways, electric light and power, telephone lines, fences, pounds, brands, weights and measures, fires and fireproof buildings, explosives, eminent domain, public works, markets, buildings, parks and cemeteries, and other grounds and lands under the control and management of the minister of the interior, and those of the powers and duties of the minister of finance and collector-general which relate to pilots and harbor masters under the laws of Hawaii, except as changed by this act and subject to modification by the legislature. In said laws the word "legislature" shall be substituted for "councils," and the words "the circuit court" for "the Hawaiian Postal Savings Bank."

SUPERINTENDENT OF PUBLIC INSTRUCTION.

SEC. 79. That there shall be a superintendent of public instruction who shall have the powers and perform the duties conferred upon and required of the minister of public instruction by the laws of Hawaii as amended by this act and subject to modifications by the legislature.

AUDITOR AND DEPUTY AUDITOR.

SEC. 80. That there shall be an auditor and deputy auditor who shall have the powers and duties conferred upon and required of the auditor-general and deputy auditor-general, respectively, by act thirty-nine of the session laws, as amended by this act, subject to modification by the legislature. In said act "officer" shall be substituted for "minister" where used without other designation.

SURVEYOR.

SEC. 81. That there shall be a surveyor who shall have the powers and duties heretofore attached to the surveyor-general, except such as relate to the geodetic survey of the Hawaiian Islands.

CHIEF SHERIFF.

SEC. 82. That there shall be a chief sheriff and deputies who shall have the powers and duties of the marshal and deputies of the Republic of Hawaii under the laws of Hawaii, except as changed by this act, and subject to modification by the legislature.

SEC. 83. That the governor shall nominate and, by and with the advice and consent of the senate of Hawaii, appoint the chief justice and justices of the supreme court, the judges of the circuit courts, the attorney-general, treasurer, commissioner of public lands, commissioner

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of agriculture and forestry, superintendent of public works, superintendent of public instruction, auditor, deputy auditor, surveyor, chief sheriff, members of the board of health, commissioners of public instruction, board of prison inspectors, board of registration and inspectors of election, and any other boards of a public character that may be created by law; and he may make such appointments when the senate is not in session by granting commissions, which shall, unless such appointments are confirmed, expire at the end of the next session of the senate. He may remove from office any of such officers except the chief justice and justices of the supreme court and the judges of the circuit courts, who shall be removable by impeachment only. All such officers shall hold office for four years and until their successors are appointed and qualified, unless sooner removed, except the chief justice and justices of the supreme court, who shall hold office during good behavior, and the judges of the circuit courts, whose terms of office shall be six years, and except the commissioners of public instruction and the members of said boards, whose terms of office shall be as provided by the laws of Hawaii.

The manner of appointment and removal and the tenure of all other officers shall be as provided by law; and the governor may appoint or remove any officer whose appointment or removal is not otherwise provided for.

The salaries of all officers other than those appointed by the President shall be as provided by the legislature, but those of the chief justice and the justices of the supreme court and judges of the circuit courts shall not be diminished during their term of office.

All persons holding office in the Hawaiian Islands at the time this act takes effect shall, except as herein otherwise provided, continue to hold their respective offices until such offices become vacant, but not beyond the end of the first session of the senate, unless reappointed as herein provided, except the chief justice and associate justices of the supreme court and the judges of the circuit courts, who shall continue in office until their respective offices become vacant.

CHAPTER IV.

THE JUDICIARY.

SEC. 84. That the judicial power of the Territory shall be vested in one supreme court and in such inferior courts as the legislature may from time to time establish.

SUPREME COURT.

SEC. 85. That the supreme court shall consist of a chief justice and not less than two associate justices: *Provided, however*, That in case of the disqualification or absence of any justice thereof, in any cause pending before the court, on the trial and determination of said cause his place shall be filled as provided by law.

LAWS CONTINUED IN FORCE.

SEC. 86. That the laws of Hawaii relative to the judicial department, including civil and criminal procedure, except as amended by this act, are continued in force, subject to modification by Congress or the legislature. The provisions of said laws or any laws of the Republic of Hawaii which require juries to be composed of aliens or foreigners

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only, or to be constituted by impaneling natives of Hawaii only, in civil and criminal cases specified in said laws, are repealed, and all juries shall hereafter be constituted without reference to the race or place of nativity of the jurors; but no person who is not a citizen of the United States or who can not understandingly speak, read, and write the English language, shall be a qualified juror in any court of the Territory of Hawaii. No plaintiff or defendant in any suit or proceeding in a court of the Territory of Hawaii shall be entitled to a trial by a jury impaneled exclusively from persons of any race.

DISQUALIFICATION BY RELATIONSHIP, PECUNIARY INTEREST, OR PREVIOUS JUDGMENT.

SEC. 87. That no person shall sit as a judge or juror in any case in which his relative by affinity or by consanguinity within the third degree is interested, either as a plaintiff or defendant, or in the issue of which the said judge or juror may have either directly or through such relative any pecuniary interest. No judge shall sit on an appeal or new trial in any case in which he may have given a previous judgment.

IMPEACHMENT.

SEC. 88. That the chief justice and associate justices of the supreme court and the judges of the circuit court of the Territory shall be liable to removal from office on impeachment by the house of representatives upon any of the following grounds, namely: Any act or negligence involving moral turpitude punishable by law as an offense and committed while in office, incapacity for the due performance of official duty, or maladministration in office.

The senate shall be a court with full and sole authority to hear and determine all impeachments made by the house of representatives.

The chief justice of the supreme court shall be ex officio president of the senate in all cases of impeachment, unless when impeached himself. Should the chief justice be impeached, some person specially commissioned by the governor shall preside over the senate during such trial.

Previous to the trial of any impeachment the senators shall respectively be sworn truly and impartially to try and determine the charge in question according to law and the evidence.

The judgment of the senate, in case of the conviction of the person impeached, shall not extend further than to removal from office and disqualification to hold any place of honor, trust, or profit under the Government; but the person so convicted shall be, nevertheless, liable to indictment, trial, judgment, and punishment according to law.

CHAPTER 5.—UNITED STATES OFFICERS.

DELEGATE TO CONGRESS.

SEC. 89. That a Delegate to the House of Representatives of the United States, to serve during each Congress, shall be elected by the voters qualified to vote for members of the house of representatives of the legislature. The times, places, and manner of holding elections shall be as fixed by law. The person having the greatest number of votes shall be declared by the governor duly elected, and a certificate shall be given accordingly.

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FEDERAL COURT.

SEC. 90. That a judicial district of the United States is established for the Territory of Hawaii, to be called the district of Hawaii, which shall be included in the ninth judicial circuit of the United States. The President of the United States, by and with the advice and consent of the Senate, shall appoint a district judge, a district attorney, and a marshal of the United States for the said district. The district court for the said district shall have, in addition to the ordinary jurisdiction of district courts of the United States, jurisdiction of all cases cognizable in a circuit court, and shall proceed therein in the same manner as a circuit court. The laws of the United States relating to appeals, writs of error, removal of causes, and other matters and proceedings as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings as between the courts of the United States and the courts of the Territory of Hawaii. Regular terms of said court shall be held at Honolulu on the second Monday in April and October and at Hilo on the last Wednesday in January of each year; and special terms may be held at such times and places in said district as the said judge may deem expedient.

INTERNAL-REVENUE DISTRICT.

SEC. 91. That the Territory of Hawaii shall constitute a district for the collection of the internal revenue of the United States, with a collector, whose office shall be at Honolulu, and deputy collectors at such other places in the several islands as the Secretary of the Treasury shall direct.

CUSTOMS DISTRICT.

SEC. 92. That the Territory of Hawaii shall comprise a customs district of the United States, with ports of entry and delivery at Honolulu, Hilo, and Kahului.

CHAPTER 6.—MISCELLANEOUS.

REVENUES FROM WHARVES.

SEC. 93. That until further provision is made by Congress the wharves and landings constructed or controlled by the Republic of Hawaii on any seacoast, bay, roadstead, or harbor shall remain under the control of the government of Hawaii, which shall receive and enjoy all revenues derived therefrom, on condition that said property shall be kept in good condition for the use and convenience of commerce, but no tolls or charges shall be made for the use of any such property by the United States, or by any vessel of war, tug, revenue cutter, or other boat or transport in the service of the United States.

SEC. 94. That Hawaiian postage stamps, postal cards, and stamped envelopes at the post-offices of the Hawaiian Islands when this act takes effect shall not be sold, but, together with those that shall thereafter be received at such offices as herein provided, shall be canceled under the direction of the Postmaster-General of the United States; those previously sold and uncanceled shall, if presented at such offices within six months after this act takes effect, be received at their face

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value in exchange for postage stamps, postal cards, and stamped envelopes of the United States of the same aggregate face value and, so far as may be, of such denominations as desired.

SEC. 95. That the public property ceded and transferred to the United States by the Republic of Hawaii under the joint resolution of annexation, approved July seventh, eighteen hundred and ninety-eight, shall be and remain in the possession, use, and control of the government of Hawaii, and shall be maintained, managed, and cared for by it, at its own expense, until otherwise provided for by Congress, or taken for the uses and purposes of the United States by direction of the President or of the governor of Hawaii.

SEC. 96. That the following officers shall receive the following annual salaries, to be paid by the United States: The governor, five thousand dollars; the secretary of the Territory, three thousand dollars; the United States marshal, two thousand dollars; the United States district attorney, two thousand dollars. And the governor shall receive annually, in addition to his salary, the sum of five hundred dollars for stationery, postage, and incidentals; also his traveling expenses while absent from the capital on official business, and the sum of two thousand dollars for his private secretary.

IMPORTS FROM HAWAII INTO THE UNITED STATES.

SEC. 97. That imports from any of the Hawaiian Islands, into any State or any other Territory of the United States of any dutiable articles not the growth, production, or manufacture of said islands, and imported into them after July seventh, eighteen hundred and ninety-eight, and before this act takes effect, shall pay the same duties that are imposed on the same articles when imported into the United States from any foreign country.

INVESTIGATION OF FISHERIES.

SEC. 98. That the Commissioner of Fish and Fisheries of the United States is empowered and required to examine into the entire subject of fisheries and the laws relating to the fishing rights in the Territory of Hawaii, and report to the President touching the same, and to recommend such changes in said laws as he shall see fit. The sum of five thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available for the purposes aforesaid.

REPEAL OF LAWS CONFERRING EXCLUSIVE FISHING RIGHTS.

SEC. 99. That all laws of the Republic of Hawaii which confer exclusive fishing rights upon any person or persons are hereby repealed, and all fisheries in the sea waters of the Territory of Hawaii not included in any fish pond or artificial inclosure shall be free to all citizens of the United States, subject however, to vested rights; but no such vested right shall be valid after three years from the taking effect of this act unless established as hereinafter provided.

PROCEEDINGS FOR OPENING FISHERIES TO CITIZENS.

SEC. 100. That any person who claims a private right to any such fishery shall, within two years after the taking effect of this Act, file his petition in a circuit court of the Territory of Hawaii, setting forth

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his claim to such fishing right, service of which petition shall be made upon the attorney-general, who shall conduct the case for the Territory, and such case shall be conducted as an ordinary action at law.

That if such fishing right be established, the governor of Hawaii may proceed, in a manner provided by law for the condemnation of property for public use, to condemn such private right of fishing to the use of the citizens of the United States upon making just compensation, which compensation, when lawfully ascertained, shall be paid out of any money in the treasury of the Territory of Hawaii not otherwise appropriated.

QUARANTINE.

SEC. 101. That quarantine stations shall be established at such places in the Territory of Hawaii as the Supervising Surgeon-General of the Marine-Hospital-Service of the United States shall direct, and the quarantine regulations for said islands relating to the importation of diseases from other countries shall be under the control of the Government of the United States. The quarantine station and grounds at the harbor of Honolulu, together with all the public property belonging to that service, shall be transferred to the Marine-Hospital Service of the United States, and said quarantine grounds shall continue to be so used and employed until the station is changed to other grounds which may be selected by order of the Secretary of the Treasury.

The health laws of the government of Hawaii relating to the harbor of Honolulu and other harbors and inlets from the sea and to the internal control of the health of the islands shall remain in the jurisdiction of the government of Hawaii, subject to the quarantine laws and regulations of the United States; and the United States shall sustain one-half of the cost of the maintenance and execution of the health establishment of the government relating to the leper settlement on the island of Molokai, and the leper hospital at Kalihi, and the homes at which the children of lepers are received and cared for on the island of Molokai and at Kalihi.

SEC. 102. That all vessels carrying Hawaiian registers immediately prior to the transfer of the sovereignty of the Hawaiian Islands to the United States shall be entitled to be registered as American vessels, with the benefits and privileges appertaining thereto. The provisions of law relating to ownership of American vessels by citizens of the United States shall not apply to such vessels.

SEC. 103. That the portion of the public domain heretofore known as Crown Land is hereby declared to have been, at the time of the transfer of the sovereignty of the Hawaiian Islands to the United States, and prior thereto, the property of the Hawaiian government, and to be free and clear from any trust of or concerning the same, and from all claim of any nature whatsoever upon the rents, issues, and profits thereof. It shall be subject to alienation and other uses as may be provided by law. All valid leases thereof now in existence are hereby confirmed.

SEC. 104. That for the purposes of naturalization under the laws of the United States residence in the Hawaiian Islands prior to the taking effect of this Act shall be deemed equivalent to residence in the United States and in the Territory of Hawaii, and the requirement of a previous declaration of intention to become a citizen of the United States and to renounce former allegiance shall not apply to persons who have resided in said islands at least five years prior to the taking effect of this Act; and all other provisions of the laws of the United States relating to naturalization shall, so far as applicable, apply to persons in the said islands.

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SEC. 105. That Chinese in the Hawaiian Islands when this Act takes effect may within one year thereafter obtain certificates of residence as required by "An Act to prohibit the coming of Chinese persons into the United States," approved May fifth, eighteen hundred and ninety-two, as amended by an act approved November third, eighteen hundred and ninety-three, entitled "An Act to amend an act entitled 'An Act to prohibit the coming of Chinese persons into the United States,' approved May fifth, eighteen hundred and ninety-two," and until the expiration of said year shall not be deemed to be unlawfully in the United States if found therein without such certificates.

SEC. 106. That the legislature of the Republic of Hawaii may enact laws not inconsistent with the foregoing provisions prior to the taking effect thereof.

SEC. 107. That this Act shall take effect on the fourth day of July, eighteen hundred and ninety-nine, except section one hundred and six hereof, which shall take effect immediately after the approval of this Act.

A BILL relating to Hawaiian silver coinage and silver certificates.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That the silver coins that were coined under the laws of Hawaii, when the same are not mutilated or abraded below the standard of circulation applicable to the coins of the United States, shall be received at the par of their face value in payment of all dues to the government of the Territory of Hawaii and of the United States, and the same shall not again be put into circulation, but they shall be recoined in the mints as United States coins.

SEC. 2. That when such coins have been received by either Government in sums not less than five hundred dollars, they shall be deposited as bullion in the mint at San Francisco, California, and shall be recoined in pieces of the same denominations as nearly as may be. And the superintendent of the said mint shall pay for such coins, at their face value, to the proper officer or agent of the government depositing the same, the sum so deposited, in standard silver coins of the United States. The expenses of transmitting said coins to and from the Hawaiian Islands shall be borne equally by the United States and the government of Hawaii.

SEC. 3. That any collector of customs or of internal revenue of the United States in the Hawaiian Islands shall, if he is so directed by the Secretary of the Treasury, exchange standard silver coins of the United States that are in his custody as such collector with the government of Hawaii, or with any person desiring to make such exchange, for coins of the government of Hawaii, at their face value, when the same are not abraded below the lawful standard of circulation, and the Secretary of the Treasury is authorized to deposit such silver coins of the United States as shall be necessary with the collector of customs or of internal revenue at Honolulu or at any government depository for the purpose of making such exchange under such regulations as he may prescribe.

SEC. 4. That any silver coins struck by the government of Hawaii that are mutilated or abraded below such standard may be presented for recoinage at any mint in the United States by the person owning the same, or his or her agents, in sums of not less than fifty dollars, and such owner shall be paid for such coins by the superintendent of

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the mint the bullion value per troy ounce of the fine silver they contain in standard silver coin of the United States.

SEC. 5. That silver coins heretofore struck by the government of Hawaii shall continue to be legal tender for debts in the Territory of Hawaii, in accordance with the laws of the Republic of Hawaii, until the first day of January, nineteen hundred and two, and not afterwards.

SEC. 6. That no seigniorage, or mint dues, or charges shall be made or retained for the recoinage of the silver coins of the government of Hawaii at any mint of the United States, under the provisions of this act.

SEC. 7. That any silver certificates heretofore issued by the government of the Hawaiian Islands, intended to be circulated as money, shall be redeemed by the Territorial government of Hawaii on or before the first day of January, nineteen hundred and two, and after said date it shall be unlawful to circulate the same as money.

SEC. 8. That nothing in this act contained shall bind the United States to redeem any silver certificates issued by the government of Hawaii, or any silver coin issued by such government, except in the manner and upon the conditions stated in this act for the recoinage of Hawaiian silver.

A BILL relating to postal savings banks in Hawaii.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

SECTION 1. That the laws of Hawaii relating to the establishment and conduct of any postal savings bank or institution are hereby repealed. And the Secretary of the Treasury, in the execution of the agreement of the United States as expressed in an act entitled "A joint resolution to provide for annexing the Hawaiian Islands to the United States," approved July seventh, eighteen hundred and ninety-eight, shall pay the amounts on deposit in Hawaiian postal savings banks to the persons entitled thereto, according to their respective rights, and he shall make all needful orders, rules, and regulations for paying such persons and for notifying such persons to present their demands for payment. So much money as is necessary to pay said demands is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be available on and after the first day of July, eighteen hundred and ninety-nine, when such payments shall begin, and none of said demands shall bear interest after said date and no deposit shall be made in said bank after said date.

Said demands of such persons shall be certified to by the chief executive of Hawaii as being genuine and due to the persons presenting the same, and his certificate shall be sealed with the official seal of the Territory and countersigned by its secretary, and shall be approved by the Secretary of the Interior, who shall draw his warrant for the amount due upon the Treasurer of the United States, and when the same are so paid, no further liabilities shall exist, in respect of the same, against the Government of the United States or of Hawaii.

SEC. 2. Any money of the Hawaiian Postal Savings Bank that shall remain unpaid to the persons entitled thereto on the first day of July, eighteen hundred and ninety-nine, and any assets of said bank, shall be turned over by the Government of Hawaii to the Treasurer of the United States, and the Secretary of the Treasury shall cause an account to be started, as of said date, between such Government of Hawaii and the United States in respect to said Hawaiian Postal Savings Bank.

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APPENDIXES.

1.

GOVERNMENT LANDS.

Summary as of the date of September 30, 1897.

Island.	Coffee.	Cane.	Rice.	Grazing.	Forest, etc.	Estimated value.
	Acres.	*Acres.*	*Acres.*	*Acres.*	*Acres.*	
Hawaii	62,890	18,156	140	368,849	749,302	$1,874,900
Maui	8,180	520	110	112,570	58,550	453,800
Oahu	800	2,050	327	71,414	13,778	983,500
Kauai	4,400	4,900	400	80,050	86,650	648,000
Molokai				40,625		77,500
Lanai and Kahoolawe				77,669		70,000
Laysan, etc., Islands						40,000
Total	76,270	25,626	977	751,177	908,280	4,147,700

	Value.	
Building lots, Honolulu	$521,800.00	
Building lots, town of Hilo	160,000.00	
Esplanade and city front:		
Leased lots (including esplanade storage), rent $27,000 per annum	450,000.00	
Old lots unleased, including fish market, custom-house site, etc	250,000.00	
Old loss (reclaimed land)	100,000.00	
		1,481,800
Total value		5,629,500

The total area of the government lands may be roughly classified as follows:

	Acres.
Valuable building lots	145
Cane lands	25,626
Rice lands	977
Coffee lands	76,270
Homesteads, government interest in	20,000
Grazing lands, of various qualities	451,200
Forest lands (high)	681,282
Rugged, inaccessible mountain tracts	227,000
Barren lands, nominal value	300,000
	1,782,500

NOTE.—Since the date of September 30, to which the foregoing summary applies, and up to the date of August 12, 1898, patent grants conveying fee-simple titles have been issued for 9,860, acres in round numbers, valued at $48,500—almost wholly of agricultural lands on the island of Hawaii.

The totals of the above summary would therefore stand corrected as follows:

Total area	acres..	1,772,640
Total value		$5,581,000

Increase in values, however, has been such that the above might be considered a conservative estimate.

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CROWN LANDS.

The printed report of the agent of crown lands for 1894 gives a full statement of those lands as of that date. After the passage of the land act of 1895 those lands came under the control of the commissioners of public lands, and are included in the foregoing summary.

Since the date of the "land act of 1895" from such "crown lands" patent giving fee simple titles have been granted for an area in round numbers of 9,960 acres, at a valuation of $36,400.

The above classification of Government lands is necessarily somewhat arbitrary, and the statement in my report of 1894 to the Surveyor-General applies also at this date, "that the lack of positive knowledge of quality and adaptability of the soil in untried sections, and the imperceptible gradation by which the best lands merge into indifferent, and indifferent into that of nominal value, makes a report of this nature to a considerable extent a matter of personal opinion rather than of scientific certainty."

I would further state that under the head of "Grazing lands and high forest land" is included a large area which in the future may be devoted to a class of temperate climate products, grain, fruits, etc., which area is now practically undeveloped.

The estimate of values of Government lands has been made independently of the leases and rents received from same. In the case of recent leases these rents are fairly representative of the value of the land, but in many of the older leases are much below the present standard of value.

TRANSACTIONS UNDER LAND ACT OF 1895.

The report of the commissioners of public lands for the period 1896–97, pages 7 to 12, shows transactions under the 1895 land act to the date of January 1, 1898, the summary of page 8 being the clearest general statement.

I have corrected the summary to bring the same to the date of August 12, 1898, as follows:

Summary of lands taken up under the general systems of the land act of 1895 to date of August 12, 1898.

	Number.	Acres.	Value.
Right of purchase leases	324	16,114	$105,192
Cash freeholds	19	716	3,948
Special agreements	86	6,197	44,653
Homestead leases	67	934	.....
Total	496	23,961	153,793

Further data as to receipts, revenue from rents, etc., will be found in the report of the commissioner of public lands referred to.

J. F. BROWN, *Agent of Public Lands.*

AUGUST 29, 1898.

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2.

Statement showing name, area, locality, etc., of public lands.

ISLAND OF HAWAII.

District.	Name.	Area.	Estimated value.	Remarks.
		Acres.		
Kona	Puuwaawaa	40,000	$25,000	Good grazing.
	Haleohiu	500	750	Remnant.
	Waiaha, 2	260	250	Coffee land.
	Puaa	860	1,000	Rocky.
	Onouli	360	500	Dense forest.
	Honomalino	6,000	13,750	Coffee and grazing.
	Kealakehe	3,460	2,500	Rocky grazing.
	Honuaula	5,400	5,000	Mountain grazing.
	Honalo	920	2,000	Coffee and wood.
	Keopuka	40	250	Coffee land.
	Waiea	1,300	3,000	Forest.
	Kalamakowali	.....	500	Homesteads.
	Kaukalua-Alae	1,300	2,000	Forest.
	Kaohe	850	1,200	Coffee and forest.
	Kukuiopae	3,600	3,500	Forest.
	Olelomoana Opihihali	3,400	3,000	Rocky grazing.
	Olelomoana	.....	500	Homesteads.
	Kipahoehoe Alika	7,500	5,000	Rocky grazing.
	Hoopuloa	1,300	2,500	Forest.
	Okoe	1,000	1,000	Barren lava.
	Kaulanamauna	3,400	2,000	Dry grazing.
	Puuanahulu	83,000	10,000	Grazing.
	Kukio	3,500	500	Do.
	Akahipu Kaulana	.....	2,000	Homesteads.
	Awalua-Ohiki	4,135	900	Rocky grazing.
	Ooma	1,200	3,500	Coffee and wood.
	Ooma uka	1,300	3,000	Do.
	Kealakehe lots	.....	600	Homesteads.
	Total	174,585	96,700	
Kohala	Pololu	1,300	10,000	Deep valley.
	Kaauhuhu	1,300	22,250	Cane and grazing.
	Kawaihae	13,000	25,000	Dry grazing.
	Waimea	40,600	66,000	Do.
	Kahei	560	12,000	Cane and grazing.
	Hualua	275	5,000	Do.
	Opihipau	450	5,000	Do.
	Hukiaa	380	4,000	Do.
	Puuepa	399	1,200	Good grazing.
	Awalua	224	2,000	Do.
	Kapaa-Puukole	1,500	3,500	Rocky grazing.
	Pili lands	9,341	6,000	Dry grazing.
	Various remnants	2,200	7,100	Grazing.
	Total	71,529	169,050	
Kau	Kapapala	172,780	100,000	Grazing.
	Waiohinu	15,210	35,000	Cane and grazing.
	Manuka	22,800	10,000	Dry grazing.
	Keaa-Mohoae	1,200	15,000	Do.
	Kamaoa-Pueo	12,500		
	Pumakaa-Kiolokaa	7,765	7,000	Grazing and wood.
	Kawala Kaunamana	2,800	20,000	Cane land.
	Hionaa	1,362	3,000	Grazing.
	Kaala-iki	11,600	15,000	Do.
	Mohokea	2,760	10,000	Cane and grazing.
	Ninole	.....	4,000	Homesteads.
	Wailau	6,500	7,000	Wood land.
	Makaka-Moanla	11,900	25,000	Cane and wood.
	Kaauhuhuula	2,700	5,000	Grazing and wood.
	Kaalaala	16,900	25,000	Cane, wood, etc.
	Total	288,777	281,000	
Puna	Olaa	54,000	121,750	Coffee land.
	Apua	9,420	8,000	Dry grazing.
	Kehena	800	2,000	Do.
	Waiakolea Kaimu	5,310	10,000	Do.
	Various government remnants	26,000	22,000	
	Total	95,530	163,750	

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Statement showing name, area, locality, etc., of public lands—Continued.

ISLAND OF HAWAII—Continued.

District.	Name.	Area.	Estimated value.	Remarks.
		Acres.		
Hamakua	Kaapahu	100	$5,000	Cane land.
	Kaiwiki-Kaala	2,200	15,000	Cane and wood.
	Hoea-Kaao	2,500	15,000	Do.
	Paauilo		15,000	Homesteads.
	Kaohe-Papalele	2,500	15,000	Coffee and wood.
	Kaohe, 2	14,500	20,000	Mountain grazing.
	Kaohe, 3, 4, and 5	200,150	35,000	Do.
	Hauola	200	8,000	Cane Land.
	Kaineho		500	Homesteads.
	Kekualele	15	700	Cane land.
	Kemau	11	300	
	Kaapahu		2,500	Homesteads.
	Kaunamano		1,200	Do.
	Kaao-Paalaea	1,015	30,000	Cane land.
	Nienie	8,000	18,000	Grazing.
	Ahualoa, 1 and 2		3,000	Homesteads.
	Lauka	133	5,500	Cane land.
	Au	163	4,200	Do.
	Kaauhuhu		750	Homesteads.
	Kapulena	1,000	3,000	Grazing.
	Hanapai	78	2,500	Cane land.
	Kamoku	2,600	5,000	Good grazing.
	Laupahoehoe-Awini	13,000	20,000	Mountain land.
	Honokaia	5,180	47,750	Cane, graizing, etc.
	Kalopa	6,600	66,500	Do.
	Waipio lands	5,000	5,000	Rice, graizing, etc.
	Waimanu	5,000	7,500	Taro and rice.
	Total	269,945	351,900	
Hilo	Waiakea	95,000	262,500	Cane and coffee.
	Ponahawai remnant		1,000	Homesteads.
	Piihonua	57,200	75,000	Cane, coffee, etc.
	Humuula	101,500	80,000	Cane forest.
	Hakalau-iki	570	25,000	Cane land.
	Manowaiopae	180	5,000	Do.
	Kaumana remnant		1,500	Rough lava.
	Kaiwiki lots		4,500	Homesteads.
	Kaapoko	130	9,000	Cane land.
	Kaieie	635	8,000	Cane and forest.
	Kawainui	500	9,000	Do.
	Kulaimano	347	19,000	Cane land.
	Kaupakuea	210	5,000	Cane and wood.
	Kaakepa	194	5,000	Cane land.
	Hononu	3,000	35,000	Cane and coffee.
	Kaiwiki-Wailea	4,500	45,000	Cane, coffee, etc.
	Kamaee	2,230	25,000	Do.
	Lepoloa-Kauniho	400	15,000	Cane land.
	Opea-Peleau	1,100	10,000	Cane and forest.
	Piha	4,250	15,000	Cane, coffee, etc.
	Waikanmalo-Wailua	4,000	21,000	Do.
	Maulua	3,000	61,500	Cane land.
	Papaaloa	10,000	15,000	Coffee and forest.
	Kuaia		5,000	Homestead, forest.
	Ookala	1,360	35,000	Cane and wood.
	Manowaialee	1,200	3,000	Woodland.
	Total	291,506	795,000	

ISLAND OF MAUI.

Lahaina	Wahikuli	2,800	$10,000	Cane and grazing.
	Various remnants		5,000	Mostly cane land.
	Olowalu	6,025	20,000	Cane and mountain land.
	Ukumehame	11,000	15,000	Grazing and mountain land.
	Puuiko	660	2,000	Grazing.
	Total	20,485	52,000	
Kula	Keokea-Waiohuli	16,000	60,000	Corn and grazing.
	Kealahou	120	2,600	Grazing.
	Kamaole	4,360	6,000	Rocky grazing.
	Waiakoa	4,500	8,000	Grazing.
	Alae-Kealua, Omaopio	2,800	10,000	Do.
	Total	27,780	86,500	

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Statement showing name, area, locality, etc., of public lands—Continued.

ISLAND OF MAUI—Continued.

District.	Name.	Area.	Estimated value.	Remarks.
		Acres.		
Hana	Waiohonu	395	$6,000	Cane land.
	Wailua	100	3,500	Do.
	Makapuu	700	700	Rocky grazing.
	Honomaele	1,000	1,000	Do.
	Wakiu	1,000	1,500	Do.
	Kawaipapa	400	500	Do.
	Kakio	1,100	1,100	Grazing.
	Papahawahawa	300	300	Do.
	Hana forest tract	14,000	13,100	Mountain land.
	Total	18,995	27,700	
Koolau	Pahoa	1,500	1,500	Mountain forest.
	Koolau forest	15,500	38,500	Water rights.
	Wailua 1 and 2	3,000	8,000	Rice, coffee, etc.
	Keanae	11,000	12,000	Coffee and forest.
	Honomanu	2,200	15,000	Water rights.
	Total	33,200	75,000	
Hamakua	Makawao	5,000	15,000	Grazing and wood.
	Hamakualoa	9,000	20,000	Forest, etc.
	Hamakualoa water right		50,000	
	Hamakualoa remnants	250	1,500	
	Total	14,250	86,500	
Wailuku	Kou	610	15,000	Cane land.
	Kapoino	30	3,000	Do.
	Polipoli	70	7,000	Do.
	Total	710	25,000	
Kaanapali	Kahakuloa	10,500	10,000	Dry grazing.
	Napili	300	1,000	Do.
	Honokawai	4,000	12,000	Do.
	Total	14,800	23,000	
Honuaula	Kanaio	7,600	6,000	Rocky grazing.
	Papaka	300	400	Do.
	Kualapa	400	500	Do.
	Kanahena	1,000	600	Do.
	Onau	600	1,200	Do.
	Papaanui	4,600	1,300	Do.
	Total	14,500	10,000	
Kahikinui	Kahikinui	25,000	25,000	Good grazing.
Kaupo	Kaniaula-Alaakua	1,500	1,000	Rocky grazing.
	Naholoku	800	500	Barren grazing.
	Nakula tract	1,500	1,500	Grazing.
	Nakula Mountain tract	4,200	2,000	Do.
	Total	8,000	5,000	
Kipahulu	Paupauluna, etc	150	1,300	Cane and grazing.
	Kipahulu forest	1,000	1,000	Forest.
	Total	1,150	2,300	

ISLAND OF LANAI AND KAHOOLAWE.

Lanai	Mahana	7,900	8,000	Grazing.
	Kalulu	6,000	6,000	Do.
	Kaunolu	7,400	7,500	Do.
	Kealia-Paauili	6,300	6,000	Do.
	Kamao	2,700	2,500	Do.
	Kamoku	8,300	8,000	Do.
	Paomai	9,000	12,000	Do.
	Total	47,600	50,000	
Kahoolawe		30,000	20,000	Do.

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Statement showing name, area, locality, etc., of public lands—Continued.

ISLAND OF MOLOKAI.

District.	Name.	Area.	Estimated value.	Remarks.
		Acres.		
Molokai	Hoolehua	3,700	$4,000	Grazing.
	Punalau	80	100	Fish ponds.
	Kamiloloa	1,300	1,100	Grazing.
	Makakupaia	1,200	900	Do.
	Makolelau remnant	1,200	1,000	Do.
	Kahananui	280	500	Do.
	Sundry remnant	5,000	5,000	Grazing and mountain.
	Ualapue	700	2,500	Do.
	Kalamaula	6,700	10,000	Do.
	Palaau	11,300	30,000	Do.
	Kapaakea	2,200	5,000	Do.
	Total	33,660	60,100	

ISLAND OF KAUAI.

	Olohena	1,150	7,000	Cane and grazing.
	Kamamaloo	2,400	15,000	Do.
	Papaa	2,000	2,000	Forest.
	Waioli	3,100	4,000	Grazing and mountain.
	Napali	13,400	5,000	Mountain land.
	Kalahee	4.000	15,000	Grazing and wood.
	Hanapepe	8,000	60,000	Cane, grazing, and valuable water rights.
	Waimea	92,400	200,000	Do.
	Hanalei	16,000	45,000	Cane and grazing.
	Anahola-Kapaa	13,400	120,000	Rice, cane, etc.
	Wailua	20,200	175,000	Do.
	Total	176,050	648,000	

ISLAND OF OAHU.

Kona	Waikiki lands	60	6,000	Rice lands.
	Kapahulu	730	3,000	Diamond Head.
	Kepuhi	11	1,500	Rice land.
	Kaauwaeloa	18	2,000	Do.
	Pukele-Waiomao	940	6,000	Rice and grazing.
	Puahia-Piliamoo, etc	50	4,000	Taro and rice land.
	Wailupe	40	1,600	Fish pond.
	Kuliouou	500	4,000	Grazing.
	Kaluaalaea, etc	700	3,500	Mountain tract.
	Waahila	200	1,600	Grazing.
	Pahao	50	1,500	Do.
	Kahoiwai, etc	30	1,000	Do.
	Kahauiki	1,300	30,000	Grazing and building lots.
	Kapalama lands	10	3,000	Rice land.
	Kapaloa	10	2,500	Rice and taro lands.
	Total	4,649	71,200	
Ewa	Manana	5	1,000	Rice land.
	Waimano	2,600	5,000	Grazing, mountain.
	Kaihikapu, etc	740	5,000	Fish pond.
	Waikakalaua	500	2,000	Grazing.
	Pouhala	800	3,000	Grazing and fish pond.
	Weloka	26	3,000	Fish pond.
	Honokawailani, etc	11	1,500	Kula and rice land.
	Aiea	1,170	8,000	Grazing.
	Total	5,852	28,500	
Waianae	Kahanaiki	690	7,000	Grazing.
	Makua	2,600		
	Keawaula	330		
	Waianae-kai	6,100	75,000	Cane and mountain land.
	Waianaeuka	14,700	50,000	Grazing and mountain.
	Keaau	2,430	8,000	Grazing.
	Lualualei	14,700	55,000	Cane and grazing.
	Nanakuli	3,430	10,000	Grazing.
	Total	44,980	205,000	

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Statement showing name, area, locality, etc., of public lands—Continued.

ISLAND OF OAHU—Continued.

District.	Name.	Area.	Estimated value.	Remarks.
		Acres.		
Waialua	Mokuleia Kealia Kawaihapai Kuaokala	14,000	$14,000	Grazing and mountain.
Koolau	Kaipapau	160	600	Grazing.
	Waiahole lands	300	7,000	Rice and grazing.
	Pupukea	2,350	5,000	Grazing.
	Poumalu	2,000	5,000	Do.
	Waialee	730	3,000	Do.
	Hauula	1,570	5,000	Do.
	Makawai-Hopekea	1,200	6,000	Rice and grazing.
	Keaahala	370	5,000	Cane and grazing.
	Kaluapuhi, etc	1,500	16,000	Rice, grazing, etc.
	Kawailoa	500	5,000	Do.
	Waimanalo	6,500	100,000	Cane and grazing.
	Total	17,180	157,600	

RECAPITULATION.

Island.	District.	Acres.	Estimated value.
Hawaii	Kona	174,585	$96,700
	Kohala	71,529	169,050
	Hamakua	269,945	351,900
	Hilo	291,506	795,000
	Puna	95,530	163,750
	Kau	288,777	281,000
	Total	1,191,872	1,857,400
Maui	Lahaina	20,485	52,000
	Kula	27,780	86,500
	Hana	18,995	27,700
	Koolau	33,200	75,000
	Hamakua	14,250	86,500
	Wailuku	710	25,000
	Kaanapali	14,800	23,000
	Honuaula	14,500	10,000
	Kaupo	8,000	5,000
	Kahikinui	25,000	25,000
	Kipahulu	1,150	2,300
	Total	178,870	418,000
Lanai		47,600	50,000
Kahoolawe		30,000	20,000
Molokai		33,660	60,100
Oahu	Kona	4,649	71,200
	Ewa	5,852	28,500
	Waianae	44,980	205,000
	Waialua	14,000	14,000
	Koolau	17,180	157,600
	Total	86,661	476,300

Island.	Acres.	Value.
Kauai	176,050	$648,000
Oahu	86,661	476,300
Lanai	47,600	50,000
Kahoolawe	30,000	20,000
Molokai	33,660	60,100
Maui	178,870	418,000
Hawaii	1,191,872	1,857,400
Laysan, etc., islands	.....	40,000
Grand total	1,744,713	3,569,800

NOTE.—The above area is exclusive of lands under the control of the minister of the interior, as well as lands now held for settlement purposes under the provisions of the "Land act, 1895." These, in the aggregate, comprise an acreage of 28,000.

PUBLIC LANDS OFFICE,
Honolulu, October 1, 1898.

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3.

Inventory of Government property under Department of the Interior as of August 12, 1898.

INTERIOR OFFICE.

Constructing counter	$346.00	
2 desks on counter	45.00	
Map stand	44.00	
License stand	14.00	
Drawers for blank forms	91.00	
3 sets letter racks	38.00	
Pigeonholes in case	18.00	
Counter railings	328.00	
Minister's table and appurtenances	150.00	
Chief clerk's table and appurtenances	150.00	
Bookkeeper's desk and appurtenances	100.00	
Cash tables	75.00	
2 tables assistant clerks	80.00	
2 glass paper cases, at $150	300.00	
1 book cupboard	45.00	
1 sideboard	350.00	
1 long table	100.00	
2 revolving bookstands	60.00	
1 clock	30.00	
4 rugs, large	140.00	
4 rugs, small	40.00	
1 typewriter and stand	120.00	
1 typewriter table (spare)	15.00	
2 iron safes, $300, $200	500.00	
1 small safe	50.00	
Oil paintings, viz: Frederick William of Prussia, Blucher, Admiral Thomas, Sam'l G. Wilder	800.00	
Records of patents of invention, corporations, copyrights, trade-marks, etc	2,000.00	
Chairs and office stools	75.00	
Round table	20.00	
Fruit and game, 2 paintings	40.00	
Stationery and blanks, etc	300.00	
Cocoa matting	10.00	
Laws, English version, 1,598 volumes	3,729.00	
Laws, Hawaiian version, 1,585 volumes	2,168.00	
		12,371.00

LEGISLATIVE CHAMBER, EXECUTIVE BUILDING.

6 large crystal electroliers, at $125	$750.00	
12 pairs window curtains, 12 gilt window cornices, at $50	600.00	
1 cornice and canopy over platform	600.00	
Carpeting on platform	20.00	
3 large mirrors, gilt frames, marble slabs, $350, $300, $300	950.00	
1 desk, black and gold	50.00	
1 large walnut library table	150.00	
1 small walnut marble-top table	25.00	
1 koa console stand	150.00	
6 gilt oval frames, at $15	90.00	
1 pair antlers, koa stand	50.00	
17 black walnut chairs, leather seat and back, at $6	102.00	
7 cuspidors	7.00	
3 waste baskets	3.00	
4 black walnut Senate tables, at $40	160.00	
2 large French vases	100.00	
Large carpet, hall, say 170 yards, at $2.50	425.00	
1 linen rug	9.00	

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Inventory of Government property under Department of the Interior, etc.—Continued.

LEGISLATIVE CHAMBER, EXECUTIVE BUILDING—continued.

Oil portraits, viz: Kamehameha I, Kamehmeha II, Queen Kamamalu, Kekauluohi, Napoleon III, Emperor Alexander of Russia, Emperor of Austria, at $200	$1,400.00	
Oil portrait, Louis Philipe, of France, $500.	500.00	
		$6,141.00

LOWER HALL, EXECUTIVE BUILDING.

1 ebony marble-top table	$100.00	
7 heavy chairs	28.00	
1 sideboard, oak	200.00	
1 paper cupboard (legislature)	50.00	
Cocoa matting	30.00	
Rug	20.00	
Oil portraits, viz: Kamehameha III, Queen Kalama, Kamehameha IV, Lunalilo, at $200	800.00	
Koa letter box	10.00	
Bulletin board	10.00	
		1,248.00

STAIRWAY.

2 bronze lamp bearers	$200.00	
Pier table	50.00	
French clock	150.00	
		400.00

UPPER HALL, EXECUTIVE BUILDING.

1 ebony marble-top table	$100.00	
1 ebony marble-top table	100.00	
Oil portrait, Kalakaua	500.00	
Oil portrait, Liliuokalani	500.00	
Oil portrait, J. C. Dominis	100.00	
1 koa square table	30.00	
8 heavy chairs	32.00	
1 office chair	6.00	
1 wooden screen	10.00	
1 small table	10.00	
1 leather lounge	10.00	
2 lithograph portraits, King and Queen of Italy	20.00	
Hall carpet	50.00	
Cocoa matting	10.60	
		1,478.00

LAND OFFICE.

Records of land awards and patents	$82,265.66	
Records, boundary commission	1,000.00	
Records, privy council	25,000.00	
Records of naturalization and sundry account books	500.00	
Printed indexes, awards, and grants	1,300.00	
Sundry copies old laws	100.00	
Office furniture	72.50	
Newspapers, bound	1,200.00	
Legislative records and manuscript	10,733.00	
		122,171.16

PUBLIC LANDS OFFICE.

1 fireproof safe	$350.00	
1 office table	100.00	
1 office table	75.00	
1 standing desk	75.00	

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Inventory of Government property under Department of the Interior, etc.—Continued.

PUBLIC LANDS OFFICE—continued.

1 map case	$40.00		
1 typewriter and table	135.00		
1 mimeograph	20.00		
1 water filter and table	8.00		
7 office chairs	20.00		
Easel and map board	10.00		
Cabinet letter file	10.00		
1 book and document case	30.00		
Sundry stationery	200.00		
Sundry stationery, suboffices	150.00		
Maps, records, and documents	10,000.00		
		$11,273.00	
			$155,082.16

REGISTRY OF CONVEYANCES.

Records:			
3 books (written), at $1	$3.00		
177 books (written), at $8	1,416.00		
16 books (written), unused or in current use, at $8	128.00		
Copyists' work on 91,746 pages, estimated at one-fourth of recording charge	57,341.25		
		58,888.25	
Indexes to records:			
6 sets new-plan indexes, 38 volumes, at $10	$380.00		
Cost of abstract work for and writing up new indexes, five and three-fourths years, to March, 1894, at $110 per month	7,590.00		
Cost of indexing, four and one-third years, to August, 1898, at $75 per month	3,900.00		
		11,870.00	
Furniture and fixtures:			
1 iron safe (old style)	125.00		
1 calendar clock	15.00		
1 koa cabinet desk	10.00		
1 koa desk top to counter	12.00		
Counter with drawers and lockers	75.00		
2 counter index racks	15.00		
1 cabinet (old style) for filing papers	5.00		
1 long koa table with drawers	12.00		
2 small koa tables with drawers	15.00		
2 long pine tables (with desk top)	20.00		
1 Med. pine table, stained	6.00		
1 square walnut table	5.00		
13 assorted chairs (8 as is)	15.00		
1 copy press, etc	7.00		
1 letter scale and magnifying glass	3.50		
1 office date stamp	5.00		
1 set rubber stamps	12.00		
Reference law books and dictionaries	20.00		
1 Remington typewriter and case	100.00		
		477.50	
Stationery:			
Assorted stationery on hand		86.00	
			71,321.75

BUREAU PUBLIC WORKS.

Office furniture	$700.00		
Plans, drafts, maps, etc	1,000.00		
Instruments and implements	650.00		
		2,350.00	

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Inventory of Government property under Department of the Interior, etc.—**Continued.**

GOVERNMENT BUILDINGS.

Hawaii:		
North Hilo, Laupahoehoe, court-house.	$400.00	
Hilo, kerosene storehouse	500.00	
South Hilo, Hilo, court-house	6,000.00	
Hilo, sheriff's house	2,500.00	
Hilo, jail	3,000.00	
Hilo, fire-engine house	2,500.00	
Hilo, powder magazine	400.00	
Puna, court-house and jail	800.00	
Kau, Waiohinu, court-house and jail	1,500 00	
South Kona, Hookena, court-house	700.00	
North Kona, Kailua, court-house and jail	1,300.00	
South Kohala, Waimea, court-house	2,000.00	
North Kohala, court-house	3,500.00	
North Kohala, lockup	1,500.00	
Honokaa, court-house and jail	2,500.00	
Hilo, wharf shed	600.00	
Waiakea, wharf shed	800.00	
		$30,500.00
Maui:		
Lahaina, court-house	4,000.00	
Jail and keeper's house	3,200.00	
Lahaina, market	1,500.00	
Wailuku, court-house	4,000.00	
Wailuku, jail and police court	2,500.00	
Kahului, custom-house	14,700.00	
Kahului, jail and keeper's house	400.00	
Ulupalakua, court-house and jail	800.00	
Hana, court-house and jail	800.00	
Makawao, court-house and lockup	1,000.00	
Paia, jail	400.00	
Makena, wharf storehouse	200.00	
Molokai, Pukoo court-house and jail	500.00	
		34,000.00
Oahu:		
Honolulu—		
Executive building	350,000.00	
Bungalow	6,000.00	
Barracks	8,000.00	
Old palace stables	2,000.00	
Judiciary building	130,000.00	
Kapuaiwa building	30,000.00	
Post-office	20,000.00	
Honlulu hale	5,000.00	
Police station	54,000.00	
Fish market	28,000.00	
Old custom-house	8,000.00	
C. Brewer & Co.'s building	9,000.00	
Custom-house and warehouses	52,000.00	
Government workshop and warehouse	7,000.00	
Powder magazine and keeper's house	1,700.00	
Chinese laundries	8,000.00	
Oahu jail	25,000.00	
Royal mausoleum	8,000.00	
Signal station, Diamond Head	1,500.00	
Forester's house, Makiki	600.00	
Government nursery buildings	5,700.00	
Electric-light station building	5,700.00	
Central fire station	28,000.00	
Engine house No.1	2,400 00	
Engine house No.3	9,900.00	
Government yard, stables, and buildings	3,000.00	

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Inventory of Government property under Department of the Interior, etc.—Continued.

GOVERNMENT BUILDINGS—continued.

Oahu—Continued.		
Honolulu—Continued.		
Pacific Mail warehouse	$8,000.00	
Pilot office and boat house	1,500.00	
Pacific Mail wharf shed	2,400.00	
Likelike wharf shed	800.00	
Kinau wharf shed	1,600.00	
I. I. wharf shed	2,300.00	
Oceanic wharf shed	5,000.00	
Brewer's wharf shed	2,300.00	
Nuuanu street wharf shed	2,400.00	
Boat landing wharf shed	300.00	
Ewa—		
Manana court-house and jail	1,300.00	
Waianae court-house and jail	600.00	
Waiallaa court-house and jail	1,500.00	
Koolauloa, Hauula court-house and jail	1,100.00	
Koolaupoko, Kaneohe court-house and jail	800.00	
		$837,200.00
Kauai:		
Waimea—		
Waimea court-house	500.00	
Lockup	100.00	
Koloa, Koloa court-house and jail	1,200.00	
Lihue—		
Nawiliwili court-house	1,800.00	
Nawiliwili jail	1,000.00	
Nawiliwili jailor's house	400.00	
Hanalei, Waioli court-house and jail	600.00	
		5,600.00

GOVERNMENT ELECTRIC LIGHT.

4 arc dynamos, lights, and appurtenances	$12,000.00	
2 incandescent dynamos, lights, and appurtenances	12,000.00	
Main wires and poles	16,000.00	
Water wheel and appurtenances	10,000.00	
Horses, wagons, harness, etc	650 00	
Stock of materials on hand	400.00	
Tools and implements	300.00	
		51,350.00

DREDGING PLANT.

New dredger and appurtenances	$50,000.00	
Old dredger scows, railroad dump cars	6,000.00	
		56,000.00

PILE-DRIVING PLANT.

Pile driver	$2,000.00	
Wharf building, tools, and equipment	1,000.00	
Wharf material in stock	12,000.00	
Spar buoys and chains in stock	500.00	
Sundry old material	500.00	
		16,000.00
Steam tug		20,000.00

WHARVES AND LANDINGS.

Hawaii:		
North Hilo, Ookala, and Laupahoehoe	$3,200.00	
South Hilo, ship wharf	16,000.00	
South Hilo, Hilo wharf	4,000.00	
South Hilo, Waiakea boat wharf	6,000.00	
Puna:		
Puna, Pohiki Kula	800.00	
Kau, Punaluu, Honuapo, and Kaalualu	5,000.00	

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Inventory of Government property under Department of the Interior, etc.—Continued.

WHARVES AND LANDINGS—continued.

Hawaii:		
South Kona, Hookena, Kaawaloa, and Napoopoo	$2,500.00	
North Kona, Keauhou, and Kailua	2,500.00	
Hamakua, Kukuihaele	500.00	
		$40,500.00
Maui:		
Lahaina	2,000.00	
Wailuku, Maalaea, Kihei, and Makena	3,700.00	
Koolau, Keanae	200.00	
Hana, Hamoa	2,000.00	
Kaupo, Maalo	700.00	
		8,600.00
Molokai:		
Pukoo	1,000.00	
Kamalo	2,400.00	
Kaunakakai	1,200.00	
		4,600.00
Oahu:		
Honolulu—		
Immigration wharf, Kakaako	2,000.00	
Pacific Mail wharf	13,600.00	
Coal wharf	5,000.00	
Likelike wharf	5,700.00	
Kinau wharf	11,000.00	
Kekuanaoa wharf	13,000.00	
Inter Island wharf	13,000.00	
Oceanic wharf	8,000.00	
Allen street wharf	5,000.00	
Boat landing	500.00	
Brewer's wharf	12,000.00	
Nuuanu street wharf	14,000.00	
Sorenson's wharf	15,700.00	
Emmes wharf	5,000.00	
Cattle wharf	1,500.00	
Waianae, Waianae wharf	1,000.00	
		126,000.00
Kauai—		
Waimea wharf	3,500.00	
Nawiliwili wharf	2,500.00	
		6,000.00

BUOYS.

Hawaii, Hilo		550.00
Maui, Lahaina		150.00
Molokai, Kaunakakai		150.00
Oahu:		
Honolulu—		
Bell buoy	$500.00	
Spar buoy	300.00	
7 channel buoys	1,200.00	
2 harbor buoys	1,000.00	
		3,000.00
Kauai, Waimea		150.00
Marine railway, Honolulu		50,000.00
Saluting battery, Honolulu		1,800.00
Retaining wall for bar débris		40,000.00

LIGHT-HOUSES.

Hawaii:		
North Hilo, Laupahoehoe	$200.00	
South Hilo, Pepeekeo	800.00	
South Hilo, Paukaa	300.00	
South Kohala, Kawaihae	100.00	
North Kohala, Mahukona	200.00	
North Kohala, Kauhola	800.00	
		2,400.00

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Inventory of Government property under the Department of Interior, etc.—Continued.

LIGHT-HOUSES—continued.

Maui:			
Lahiana	$250.00		
Makena	50.00		
		$300.00	
Molokai:			
Kaunakakai	50.00		
Lae o Ka Laau	3,750.00		
		3,800.00	
Oahu:			
Honolulu, channel light and keeper's house	5,000.00		
Inner light	400.00		
Diamond Head light	7,500.00		
Barber's Point light	4,000.00		
Waialua light	100.00		
		17,000.00	
Kauai, Nawiliwili		500.00	

WATERWORKS.

Hawaii:			
Hilo	$24,000.00		
Laupahoehoe	700.00		
		24,700.00	
Kauai, Koloa		3,000.00	
			$1,386,200.00

HONOLULU WATERWORKS.*

Office furniture and fixtures	$3,923.00		
Reservoirs	78,508.00		
Pipe system	258,780.00		
Pumping plant (Makiki)	10,000.00		
Pumping plant (Beretania St.)	50,000.00		
Artesian wells	39,042.00		
Tools, hose, etc	3,691.00		
Material in store	2,000.00		
Buildings	2,500.00		
		448,444.00	

BUREAU OF ROADS, HONOLULU.

Office furniture, etc	300.00	
Live stock	4,800.00	
Carts, wagons, and watering carts	4,200.00	
Harness	910.00	
Railroad and rolling stock	1,000.00	
Stonecrusher and appurtenances	1,200.00	
2 road rollers	3,300.00	
Tools and implements	2,450.00	
Portable crusher	1,600.00	
		19,760.00

ROAD BOARDS, OUTER DISTRICTS.

24 boards, at $800	19,290.00

*The Honolulu waterworks receipts for 6 years, to June 30, 1898, amounted to	$302,800.55
The running expenses and general repairs for the same time	91,402.80
Net earnings	211,397.75
Or annual average	35,232.95
Which, at 7 per cent, would give as commercial value, say	503,328.00

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Inventory of Government property under Department of the Interior, etc.—Continued.

FIRE DEPARTMENT, HONOLULU.

2 steam fire engines	$15,000.00	
1 chemical fire engine	2,500.00	
3 hose wagons	2,500.00	
1 hook and ladder truck	300.00	
12 horses	2,400.00	
7 sets double and single harness and hangers	1,000.00	
6,670 feet 2½-inch fire hose	5,052.50	
1 supply wagon	150.00	
9 exercising saddles	67.50	
400 feet 1-inch fire hose (chemical)	200.00	
200 feet ¾-inch hose	14.00	
4 hose jumpers	400.00	
6 fire extinguishers (chemical)	360.00	
5 Eastman holders	250.00	
2 ball nozzles	150.00	
1 two-way deluge set	120.00	
4 alarm gongs	250.00	
24 fire hats	150.00	
1 desk and fittings	75.00	
1 safe	100.00	
1 letter press	7.50	
40 chairs	100.00	
4 clocks	25.00	
2 tables	57.00	
4 tables (small)	10.00	
1 bookcase	37.00	
14 chairs	21.00	
27 bedsteads, mattresses, and fittings	216.00	
2 spare engine wheels	100.00	
2 fire bells	75.00	
Electrical fixtures	392.00	
2 dozen lanterns	24.00	
1 case axes	18.00	
Sundry equipments and furniture	567.25	
		$32,688.75

FIRE DEPARTMENT, HILO.

1 steam fire engine	5,000.00	
1 hose cart	250.00	
1 hose reel	200.00	
800 feet 2½-inch fire hose	475.00	
Sundry equipments	400.00	
		6,325.00

BOARD OF HEALTH.

Office furniture, safe, 2 bookcases, etc		800.00
Government Dispensary:		
Building	$1,800.00	
Furniture	200.00	
Drugs and instruments	700.00	
		2,700.00
House to mitigate: Building, furniture, and drugs		200.00
Garbage service:		
Buildings	800.00	
Excavator and 2 pumps	400.00	
4 carts and 1 wagon	480.00	
5 mules, 1 horse, and 6 sets of harness	1,000.00	
Hose, tools, etc	250.00	
		2,930.00

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Inventory of Government property under Department of the Interior, etc.—Continued.

BOARD OF HEALTH—continued.

Quarantine station:		
No. 1 Corral, Coolie quarters	$2,000.00	
No. 2 Corral, Coolie quarters	1,000.00	
1st class house	2,000.00	
Keeper's house	200.00	
2 hospitals	1,200.00	
15 other houses	2,200.00	
Machinery and disinfecting building	2,000.00	
Electric dynamo with connections	1,600.00	
Disinfecting plant	3,800.00	
Fumigating plant	500.00	
Fumigating plant at Pacific mail wharf	2,800.00	
Bridge and wharf	2,500.00	
Water pipes and tanks	2,000.00	
Furniture, tools, etc	600.00	
		$23,400.00
Kalihi receiving station:		
Buildings and fence	2,250.00	
Boiler, baths, furniture, and tools	250.00	
Water pipes, cart, and harness	350.00	
		2,850.00
Kapiolani Home:		
Sisters' house and dormitories	1,800.00	
Other buildings	500.00	
Carriage, horse, furniture, tools, etc	200.00	
Tank, 2 stoves, and furniture	450.00	
		2,950.00
Kalihi laboratory: Instruments and drugs		658.00
Quarantine buildings at Kakaako, 9 houses		900.00
Food inspectors' office: Furniture, etc		100.00
Insane Asylum:		
Manager's house	3,000.00	
Office furniture and safe	260.00	
Dispensary furniture and drugs	280.00	
House furniture	248.00	
Ward No. 1 building	2,500.00	
Bath house, boiler, baths, etc	1,000.00	
Poi house, steam tanks, etc	200.00	
1 house	100.00	
Ward No. 2, building	2,000.00	
Dining room, kitchen, and utensils	235.00	
30 iron bedsteads	120.00	
2 fire extinguishers	60.00	
Ward No. 3, building	3,000.00	
Furniture, etc	370.00	
Ward No. 4, building	6,000.00	
1 house	600.00	
1 house	450.00	
5 houses	450.00	
Bed and table linen	200.00	
Tank, wagon, 2 handcarts, harness, tools, etc	820.00	
3 horses and 1 buggy	525.00	
Electric-light fixings	200.00	
		22,618.00
Leper-receiving cells:		
Hawaii—		
Hilo, 1 building	150.00	
N. Hilo, 1 building	150.00	
Hamakua, 1 building	150.00	
S. Kohala, 1 building	150.00	
N. Kohala, 1 building	150.00	
Hookena, 1 building	150.00	
S. Kona, 1 building	150.00	
Kau, 1 building	150.00	
Puna, 1 building	150.00	

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Inventory of Government property under Department of the Interior, etc.—Continued.

BOARD OF HEALTH—continued.

Leper-receiving cells—Continued.		
Maui—		
Wailuku, 1 building	$150.00	
Paia, 1 building	150.00	
Hana, 1 building	150.00	
Nu'u, 1 building	150.00	
Kauai Waimea, 1 building	150.00	
		$2,100.00
Koloa hospital, Kauai:		
Building	1,000.00	
Furniture, etc	150.00	
		1,150.00
Malulani hospital, Wailuku, Maui:		
Buildings	2,500.00	
Furniture	1,800.00	
Drugs and supplies	1,000.00	
		5,300.00
Hilo hospital: Building, furniture, drugs, etc		4,000.00
Leper settlement, Molokai:		
Superintendents, visitors, and outhouses	1,600.00	
Furniture	290.00	
		1,890.00
Office and material house	450.00	
Furniture and material	540.00	
		990.00
Molokai store building, 2 safes, desks, etc	980.00	
Stock, estimated	5,000.00	
		5,980.00
Slaughterhouse	500.00	
Butcher shop, tools, etc	540.00	
		1,040.00
Bath house, baths, boiler, etc		470.00
3 warehouses and fixtures		1,650.00
Schoolhouse and furniture		250.00
Jail building and furniture		420.00
Beretania Hall, musical instruments, etc	1,300.00	
2 dispensaries, drugs, instruments, etc	700.00	
Carpenter's and blacksmith's shops, tools, etc	250.00	
Ox carts, yokes, bows, chains, etc	560.00	
1 hearse, 2 handcarts and tools	250.00	
20,000 feet lumber	320.00	
		3,380.00
Doctor's, visitor's, and out houses, Kalawao	450.00	
Furniture	60.00	
Hospital buildings, boiler, baths, furniture, etc	2,120.00	
		2,630.00
Baldwin Home, Kalawao, 58 buildings	9,100.00	
Furniture, baths, carts, tools, etc	3,530.00	
		12,630.00
86 houses at Kalawao		6,485.00
Bishop's Home, Kalaupapa, and sisters' dwelling	2,500.00	
34 other buildings	4,900.00	
Sewerage plant	2,000.00	
Boiler, baths, furniture, carts, tools, etc.	1,835.00	
		11,235.00
126 houses at Kalaupapa		14,075.00

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Inventory of Government property under Department of the Interior, etc.—Continued.

BOARD OF HEALTH—continued.

Leper settlement, Molokai—Continued.			
Waterworks:			
20,250 feet 4-inch pipe; 12,250 feet 3-inch pipe; 50,000 feet 2-inch pipe; service pipes and fittings	$12,500.00		
2 reservoirs	4,000.00		
		$61,500.00	
Live stock:			
651 head cattle	9,765.00		
14 horses	280.00		
112 asses	560.00		
		10,605.00	
			$162,886.00

GOVERNMENT SURVEY.

Office furniture and belongings	2,000.00	
Manuscript maps, records, and field books	253,250.00	
Surveying instruments	2,000.00	
Clock, chronometers, and meteorological outfit	800.00	
Tools and field outfits	400.00	
Library, including foreign maps	500.00	
Island maps for sale or distribution	500.00	
Observatory building and pier	300.00	
Tide-gauge building, well, and instrument	250.00	
		260,000.00

GOVERNMENT LANDS UNDER CONTROL OF THE MINISTER OF THE INTERIOR.

Hawaii:	
Hilo—	
Lot at Makaoku, 18.85 acres	$7,540.00
Island of Mokuola, 3.80 acres	3,800.00
Rock and shoal, 26.62 acres	5,000.00
Lot at Waiakea, No. 1, 4 acres	8,000.00
Lot at Waiakea, No. 2, 3.5 acres	7,000.00
Lot, Ponahawai, No. 1, 16.6 acres	33,200.00
Lot, Ponahawai, No. 2, 3.11 acres	6,220.00
Lot, Ponahawai, No. 3, ¼ and $1\frac{6}{10}$ acres	5,800.00
Lot, Piihonua, No. 1, 11.9 acres	29,750.00
Lot, Piihonua, No. 2, 3.4 acres	10,200.00
Lot, Piihonua, No. 3, 4.3 acres	12,900.00
Block A, 2 acres	20,000.00
Block B, 1.26 acres	15,000.00
Lot, makai Front st., 1 acre	8,000.00
Lot, court-house, 1.3 acres	3,900.00
Lot, Hilo jail, 1.4 acres	2.800.00
Lot, court-house, Laupahoehoe, one-fifth acre	200.00
Lot adjoining landing, Laupahoehoe, three-fifths acre	700.00
Hamakua: Lot, court-house, 1 acre	200.00
South Kohala: Lot, court-house, Waimea, two-thirds acre	200.00
North Kohala: Lot, court-house, 1½ acres	500.00
North Kona—	
Lot, court-house, Kailua, 1½ acres	500.00
Lot near landing, Kailua, 0.7 acre	710.00
Lot, court-house, Hookena, 0.22 acre	220.00
Lot near landing, Hookena, 0.15 acre	150.00
Lot, Hookena town, 0.05 acre	50.00
Lot, court-house, Waiohinu, three-fourths acre	200.00

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Inventory of Government property under Department of the Interior, etc.—Continued.

GOVERNMENT LANDS UNDER CONTROL OF THE MINISTER OF THE INTERIOR—cont'd.

Hawaii—Continued.		
Kau—		
Puna—Lot, court-house, one-fourth acre	$100.00	
		$182,840.00
Maui:		
Lahaina—		
Lot, court-house, 2 acres	3,000.00	
Lot, Pelekane (taro), 1.92 acres	384.00	
Lot, prison, 0.80 acre	1,000.00	
Lot, fish market, 0.1 acre	200.00	
Lot on beach, 0.3 acre	600.00	
Wailuku—		
Lot, court-house, 0.68 acres	680.00	
Lot, hospital, 2 acres	1,000.00	
Makawao—		
Lot, court-house, 0.96 acre	400.00	
Lot at Paia, 0.50 acre	200.00	
Hana—Lot, court-house	200.00	
Molokai—		
Molokai—		
Lot, court-house	200.00	
		7,864.00
Oahu:		
Honolulu—		
Lots, Esplanade, 22 acres	800,000.00	
Lot, Brewer Building, 4,000 square feet	6,000.00	
Lot, California Feed Co. Building, 2,400 square feet	3,600.00	
Lot, old custom-house, 4,000 square feet	6,000.00	
Lot, Queen street (makai side) 2,700 square feet	4,050.00	
Lot, Queen street (mauka side) 0.37 acre	15,000.00	
Lot, Brewer Warehouse, 5,600 square feet	5,600.00	
Lot, extension Queen street (tide lands Youmans), 4.859 acres	20,000.00	
Lot, corner Maunakea and Queen streets, 0.3 acre	9,000.00	
Lot, central fire station, one-fourth acre	10,000.00	
Lot, Maunakea street, fire station, 2,625 square feet	2,625.00	
Lot, Kulaokahua, fire station, 0.7 acre	1,500.00	
Lot, Kapalama, fire station, one-third acre	2,000.00	
Lot, Executive Building, 11 acres	165,000.00	
Lot, Judiciary Building, 5.1 acres	76,500.00	
Lot, barracks, 1.8 acres	21,600.00	
Lot, Miller street, 0.47 acre	4,700.00	
Lot, Government Dispensary, 0.19 acre	3,800.00	
Lot, Honolulu post-office, 0.1 acre	20,000.00	
Lot, station house, 0.22 acre	25,000.00	
Lot, Honolulu Hale, one-fifth acre	35,000.00	
Lot, Bethel street, No. 1, 0.2 acre	25,000.00	
Lot, Bethel street, No. 2, 0.03 acre	1,200.00	
Lot, River Park, 3.82 acres	38,200.00	
Lot, Marine Park, 11.54 acres	11,540.00	
Lot, Kaaukukui, 28 acres	28,000.00	
Lot, Thomas square, 6.704 acres	40,000.00	
Lot, old kerosene warehouse, 0.7 acre	4,000.00	
Lot, Emma square, 0.6 acre	6,000.00	

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Inventory of Government property under Department of the Interior, etc.—Continued.

GOVERNMENT LANDS UNDER CONTROL OF THE MINISTER OF THE INTERIOR—cont'd.

Oahu—Continued.			
Honolulu—Continued.			
Government nursery, King street, 2.48 acres	$12,400.00		
Government parade ground (Makiki Park), 2.96 acres	14,800.00		
Auwaiolimu land, leased to Kapiolani, 500 acres	100,000.00		
Punchbowl lands and Kewalo, reserved for Bureau Agriculture, 222 acres	44,400.00		
Tantalus lots, 49.5 acres	24,750.00		
Makiki Ridge lots, 19.2 acres	9,600.00		
Makiki Valley lands, 808.5 acres	32,340.00		
Manoa Ridge Top, 81.15 acres	8,115.00		
Diamond Head property, 729 acres	18,225.00		
Kapiolani Park property, 165.3 acres	82,650.00		
Nuuanu Valley property, Kahapaakai, 2,220 acres	44,400.00		
Lot, electric-light station, 8 acres	4,000.00		
Hanaiakamalama, 9.81 acres	9,810.00		
Lot adjoining Kapena Falls, 0.8 acre	400.00		
Mausoleum lot (Nuuanu), 4 acres	8,000.00		
Lower reservoir lot, 1.14 acres	1,140.00		
Kunawai Springs, 1½ and 0.43 acres	965.00		
Lot, Liliha street, 1.2 acres	1,800.00		
Insane asylum property, 13.66 acres	13,660.00		
Kuwili lot, King street, 10.63 acres	15,945.00		
Oahu prison property, 2.7 acres	10,800.00		
Lots near prison, 0.8 acre	3,200.00		
Lot, Iwilei laundry, 3.12 acres	6,240.00		
Ewa—lot, court-house, 0.587 acre	200.00		
Waianae—lot, court-house, one-fourth acre	100.00		
Waialua—lot, court-house, 1 acre	300.00		
Koolauloa—lot, court-house	100.00		
Koolaupoko—lot, court-house, Kaneohe, one-fourth acre	100.00		
		$1,859,355.00	
Kauai:			
Waimea—lot, court-house, one-fourth acre	100.00		
Koloa—lot, court-house, 39,932 square feet	400.00		
Lihuo—lot, court-house	100.00		
Kawaihau—lot, court-house, one-fourth acre	100.00		
Hanalei—lot, court-house	100.00		
		800.00	
			$2,050,859.00
Total			4,612,766.66

RECAPITULATION.

Interior office	$155,082.16
Registry of conveyances	71,321.75
Bureau of public works	1,386,200.00
Honolulu water works	448,444.00
Bureau of Honolulu roads	19,760.00
Road boards, outer districts	19,200.00
Fire department, Honolulu	32,688.75
Fire department, Hilo	6,325.00
Board of health	162,886.00
Government survey	260,000.00
Government lands	2,050,859.00
	4,612,766.66

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4.

Inventory of Government property under the control of the judiciary department of the Republic of Hawaii September 30, 1898.

ISLAND OF OAHU.

Supreme and circuit courts:	
Law library, 5,350 volumes	$17,000.00
Hawaiian Reports and Statutes in stock, 2,875 volumes	5,000.00
5 large desks	375.00
130 chairs	390.00
4 large carpets	40.00
21 benches	75.00
10 tables	50.00
1 koa robe case	80.00
2 bookcases	25.00
5 lounges	50.00
2 clocks	30.00
4 clerk's desks	40.00
12 cupboards	240.00
5 bookcases (glass doors)	250.00
4 typewriters	400.00
2 iron safes	300.00
1 letterpress	10.00
6 court seals	30.00
3 counters	75.00
8 bookstands	80.00
6 portrait paintings	2,000.00
Record books and records	50,000.00
Stationery	360.00
Total	76,840.00
District court of Honolulu:	
Hawaiian Reports, Statutes, etc	50.00
Civil and criminal record books	100.00
1 safe (old fashion)	25.00
Furniture, cupboards, etc	265.00
Total	440.00
District court of Ewa:	
Session Laws, 40 copies (English and Hawaiian)	40.00
Hawaiian Reports, 10 volumes	30.00
Civil and Penal Codes, 4 copies	12.00
Records and stationery	25.00
Total	107.00
District court of Waianae:	
Hawaiian Reports, 8 volumes	24.00
Session Laws, 23 copies (English and Hawaiian)	23.00
Total	47.00
District court of Waialua:	
Hawaiian Reports, 9 volumes	27.00
Session Laws, 15 copies	15.00
Furniture, etc	15.00
Total	57.00
District court of Koolaupoko:	
Hawaiian Report, 9 volumes	27.00
Session Laws, 5 copies	5.00
Record book, 1	10.00
Total	42.00
Total for island of Oahu	77,533.00

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Inventory of Government property under the control of the judiciary department of the Republic of Hawaii, etc.—Continued.

ISLAND OF MAUI.

Circuit and district courts of Wailuku:	
Session Laws, 40 copies (English and Hawaiian)	$40.00
Hawaiian Report, 12 volumes (English and Hawaiian)	36.00
American and English Encyclopedia of Law, text-books, etc., 65 volumes	313.00
1 vault	200.00
Desks, furniture, stationery, etc	450.00
Total	1,039.00
District court of Lahaina:	
Session Laws, 36 copies (English and Hawaiian)	36.00
Hawaiian Report, 10 volumes	30.00
Furniture and stationery	65.00
Total	131.00
District court of Hana:	
Hawaiian Report, 10 volumes	30.00
Session Laws, 20 copies (English and Hawaiian)	20.00
Furniture, etc	25.00
Total	75.00
District court of Makawao:	
Session Laws, 20 copies (English and Hawaiian)	20.00
Hawaiian Report, 10 volumes	30.00
Records and furniture	86.00
Total	136.00
District courts of Molokai and Lanai:	
Session Laws, 40 copies (English and Hawaiian)	40.00
Civil and Penal Laws, 4 copies	12.00
Furniture and stationery	40.00
Total	92.00
Total for island of Maui	1,069.00

ISLAND OF HAWAII.

Circuit courts of Hawaii:	
Hawaiian Report, 19 volumes (English and Hawaiian)	57.00
Civil and Penal Laws, 4 copies	12.00
Session Laws, 60 copies (English and Hawaiian)	60.00
American and English Encyclopedia of Law, 31 volumes	93.00
Encyclopedia of Pleading and Practice, 12 volumes	36.00
Text-books, etc., 25 volumes	75.00
Total	333.00
District court of South Kona:	
Hawaiian Report, 10 volumes	30.00
Session Laws, 18 copies (English and Hawaiian)	18.00
Civil Laws, 4 copies	12.00
Furniture, stationery, etc	40.00
Total	100.00
District courts of East and West Kau:	
Hawaiian Report, 2 volumes	6.00
Civil Laws, 4 copies	12.00
Session Laws, 20 copies (English and Hawaiian)	20.00
Total	38.00

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Inventory of Government property under the control of the judiciary department of the Republic of Hawaii, etc.—Continued.

ISLAND OF HAWAII—continued.

District court of North Hilo:	
Hawaiian Report, 10 volumes	$30.00
Civil Laws, 6 copies	18.00
Session Laws, 16 copies (English and Hawaiian)	16.00
Record books, stationery, furniture, etc	36.00
Total	100.00
District court of South Hilo:	
Hawaiian Report, 10 volumes	30.00
Hawaiian Report, 2 volumes (Hawaiian)	6.00
Civil and Penal Codes, 4 copies	12.00
Session Laws, 28 copies (English and Hawaiian)	28.00
Civil Laws, 5 copies	15.00
Record books, stationery, etc	75.00
Total	166.00
District court of Puna:	
Session Laws, 13 copies	13.00
Records and stationery	15.00
Total	28.00
Total for island of Hawaii	765.00

ISLAND OF KAUAI.

Circuit court:	
Hawaiian Report (English and Hawaiian), 18 volumes	54.00
Civil and Penal Laws, 6 copies	18.00
American and English Encyclopedia of Law; Encyclopedia of Pleading and Practice, etc., 64 volumes	256.00
Record books, furniture, stationery, etc	75.00
Total	403.00
District court of Lihue:	
Session Laws, 24 copies	24.00
Civil and Penal Laws, 2 copies	6.00
Furniture, stationery, etc	50.00
Total	80.00
District court of Koloa:	
Compiled Laws, 2 copies	6.00
Civil and Penal Laws, 5 copies	15.00
Hawaiian Report, 5 volumes	15.00
Session Laws, 14 copies (English and Hawaiian)	14.00
Records, stationery, etc	50.00
Total	100.00
District court of Kawaihau:	
Session Laws, 28 copies (Engish and Hawaiian)	28.00
Furniture and stationery	25.00
Total	53.00
District court of Waimea:	
Hawaiian Report, 10 volumes	30.00
Session Laws, 9 copies	9.00
Civil and Penal Laws, 3 copies	9.00
Total	48.00

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Inventory of Government property under the control of the judiciary department of the Republic of Hawaii, etc.—Continued.

ISLAND OF KAUAI—continued.

District court of Hanalei:	
Session Laws, 12 copies	$12.00
Compiled Laws, 1 volume	3.00
Civil and Penal Laws, 4 copies	12.00
Records and stationery	20.00
Total	47.00
Total for island of Kauai	731.00

RECAPITULATION.

Island of Oahu	77,533.00
Island of Maui	1,069.00
Island of Hawaii	765.00
Island of Kauai	731.00
Total	80,098.00

5.

Inventory of Government property in the possession of the finance office August 12, 1898.

1 burglar proof gold safe	$450.00
1 burglar time-lock safe	850.00
Large vault fittings	210.00
Koa table, minister's office	150.00
Oak desk and top, registrar office	100.00
Standing koa desk and stool	40.00
1 counter desk	20.00
1 counter cash desk	25.00
1 typewriter desk, "Smith Premier machine"	140.00
1 koa cash and warrant cabinet	40.00
6 walnut cane-seat chairs	25.00
1 revolving library chair	10.00
Koa counter and railings	600.00
7 floor rugs	50.00
1 revolving door rack	15.00
1 letter and document cabinet	40.00
1 check-cancelling machine	30.00
3 sets of coin scales	75.00
Dating and cancelling stamps	25.00
Rubber stamps and case	30.00
Walnut money trays	60.00
1 clock	10.00
Copying press and stand	30.00
1 dressing case	75.00
Books, stationery, etc	500.00
Total furniture and fixtures	3,600.00
Revenue stamps, invoice value	1,500.00
Total	5,100.00

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Inventory of Government property in the possession of the tax offices August 31, 1898.

First division, island of Oahu:	
1 safe	$160.00
1 small safe	25.00
1 bookcase	100.00
1 desk	25.00
2 stationery cases	35.00
4 tables	50.00
13 chairs	30.00
1 Honolulu City map	3.00
13 law books	39.00
4 coin trays	8.00
1 letterpress	8.00
5 lamps	15.00
3 stamps	25.00
Desk furnishings	15.00
50 blank receipt books	25.00
Blanks and stationery	100.00
Total	663.00
Second division, island of Maui:	
1 office table	25.00
14 assessment books	31.00
8 abstract books	28.00
5 index books	5.00
29 receipt books	24.25
14 cash books	14.00
5 law books	25.00
26 session laws	26.00
1 map of Maui	5.00
30 detail maps and tracings	30.00
1 abstract book of assessment	1.50
6 books compiled informations	6.00
2 yearly report books	5.00
6 storage boxes for books	10.00
Blanks	10.00
Desk furnishings	16.77
Total	262.52
Third division, island of Hawaii:	
1 large koa table, cabinet top	40.00
2 small pine tables	7.00
1 koa bookcase	10.00
2 large pine bookcases	40.00
1 koa lounge	8.00
4 large armchairs	6.00
1 plain chair	.50
1 letterpress and stand	15.00
1 washstand	2.00
1 old style German safe	50.00
Sundry books, other than records	30.00
1 typewriter, stationery, and records	66.50
Total	275.00
Fourth division, island of Kauai:	
1 old copy press	3.00
Rubber stamps and dates	8.00
2 bookstands and sundries	6.60
Total	17.60
Grand total	1,218.12

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Inventory of government property in the possession of the customs bureau August 31, 1898.

Collector's office:	
1 black roll-top desk	$35.00
1 office chair, leather seat	3.50
1 large office table, square	25.00
1 revolving office chair, leather seat	5.00
2 revolving office chairs, leather seat	7.00
1 revolving office chair, cane seat	1.00
1 large tap rug	3.50
1 oak bookcase	7.50
1 cedar bookrack	15.00
1 lot bound newspapers, Hawaiian (76 volumes)	76.00
1 lot encyclopedias (7)	25.00
1 lot of law books	5.00
1 Standard Dictionary	10.00
1 tin paper rack	.25
1 letter scale	1.50
1 door screen, wood	20.00
1 lot of reports (72)	10.00
1 office clock	10.00
1 lot (7) maps, Hawaiian Islands	15.00
Total	275.25
Hallway from collector's office:	
1 ice chest	2.50
1 cane arm chair	3.00
1 typewriter stand	1.50
1 looking glass	.50
Total	7.50
Main office:	
1 large iron safe	500.00
1 small cash desk	5.00
1 office desk, high	20.00
1 large office table	25.00
1 small iron safe	50.00
1 high office desk	20.00
1 chest drawers	25.00
1 office table	20.00
2 office stools	5.00
2 office chairs	4.50
1 office desk, high	15.00
1 office desk, flat	7.50
1 office counter	35.00
10 office stamps and numbering	10.00
1 office typewriter, Barloch	50.00
1 office block calendar	15.00
2 office stands	20.00
12 maps, island of Hawaii	15.00
1 office railing, steel	50.00
1 lot of inkstands	5.00
Total	897.00
Statistical department:	
2 high desks	10.00
1 low desk	10.00
4 tables	14.00
2 office stools	2.00
4 low chairs	4.00
1 locker	20.00
1 locker, high	25.00
1 letter press	5.00
9 wood lockers	50.00
1 office clock	5.00
1 water filter	1.50
Total	146.50

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Appraiser's department:	
2 desks	$20.00
1 single desk	10.00
1 Koa desk	10.00
1 single desk	5.00
2 high stools	3.00
3 office chairs	3.75
1 cabinet	3.50
1 bookcase	3.00
1 lot of old encyclopedias, 20 volumes	5.00
1 iron office railing	10.00
1 stone filter	1.00
1 tin spittoon	.25
2 cane paper baskets	.50
1 table	1.25
1 Standard Dictionary	10.00
1 paper scale	2.50
1 standard scale	25.00
1 map of Hilo Bay	1.00
3 wood tables	15.00
1 glass show case	10.00
4 wood tables and 10 wood horses	10.00
1 hand truck	2.50
1 case truck	1.50
Total	153.75
Appraiser's storekeeper department:	
1 desk	10.00
1 stool	1.50
9 paper clips	4.50
1 measuring rod	1.50
1 ready reckoner	2.50
2 hand trucks	5.00
1 platform car	2.50
1 galvanized bucket	.50
1 shovel	1.00
Total	29.00
Gauger's department:	
1 case hydrometer	10.00
1 agate pan	1.00
1 chemical outfit	100.00
1 saleram wine, complete	90.00
1 water bath	15.00
1 water still	10.00
6 assorted copper measures, gill to gallon	5.00
5 assorted copper funnels	5.00
1 Westphalle's specific gravity bale	25.00
3 wood tables	3.50
1 ice chest	2.50
1 lot of tools	1.00
1 armchair	.75
1 Ellis Premes scale	10.00
2 gauge rods, Stanley rule	25.00
1 desk	7.50
1 chair	1.50
Total	312.75
Bonded storekeeper department:	
1 book rack	2.50
1 desk	5.00
1 table	1.50
1 clock	2.00
1 office railing	3.50
1 dictionary	1.00
1 armchair	1.00
1 stool	1.00

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Bonded storekeeper department—continued.	
1 cupboard	$2.00
1 wood stool	.50
1 tin water cooler	1.50
4 trucks	10.00
1 lot of tools	1.00
Total	32.50
Harbor master's office:	
1 desk	3.50
1 office rail	10.00
1 table	1.00
1 desk	3.50
4 chairs	5.00
1 locker	10.00
2 maps North Pacific	5.00
1 map Honolulu water front	2.50
2 iron strong boxes	5.00
Total	45.50
Port surveyor's office:	
1 desk	15.00
1 table	2.50
1 stool	1.50
1 armchair	1.25
1 lounge	5.00
1 inkstand, etc	1.00
1 set of lockers	15.00
Upstairs for "guards"—	
2 iron bedsteads and mattresses	15.00
20 stand bunks	20.00
1 chair and bed	1.50
Office on wharf—	
2 tables	3.50
2 chairs	2.50
8 lockers	5.00
2 14-foot boats, old, complete	60.00
1 lot tools, viz, buckets, brooms, etc	50.00
1 50-foot rubber hose	3.50
Total	202.25
Pilots' office:	
Room No. 1—	
1 desk	10.00
1 table	2.50
7 armchairs	8.75
2 spittoons	.50
1 clock	2.50
1 filter	2.00
3 maps and frames	5.00
2 barometers	15.00
4 cotton window shades	1.00
1 pair marine glasses	15.00
Room No. 2—	
1 iron bed and mattress	3.50
1 lounge	2.50
1 table	2.00
1 chair	1.25
3 whaleboats, complete	600.00
5 window shades	1.25
2 buckets	.50
50 feet of hose	3.50
1 Code International Signals	25.00
4 straw mattresses	2.00
4 spittoons	1.00
3 mats	1.50
Total	696.25

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Custom-house at Kahului:	
2 tables	$30.00
1 desk	20.00
1 iron safe	200.00
1 letter press	5.00
1 stamp	5.00
5 chairs	8.00
1 cupboard	5.00
1 boat	80.00
Total	353.00
Custom-house at Mahukona:	
1 desk, 1 table, 1 chair, 1 horse, bridle, and saddle, 12 volumes of laws	25.00
Custom-house at Hilo:	
1 iron safe	200.00
1 desk	15.00
2 tables	10.00
1 letter press	5.00
1 seal and cupboard	7.50
1 still for testing spirits	25.00
4 inkstands	2.00
Sundries	15.00
Total	279.00
Grand total	3,456.25

Inventory of Government property in the possession of postal bureau August 31, 1898.

Postmaster-General's office:	
1 roller-top writing desk	$60.00
1 desk chair	6.00
1 office chair	2.00
2 ordinary chairs	2.00
1 typewriter and desk	100.00
1 washstand	1.50
1 bowl and pitcher	.75
1 Lyons & McNally's atlas	35.00
1 inkstand	1.00
Total	208.25
Lower floor:	
1 large safe, I. I. S. N. Co	275.00
1 nest newspaper distributing boxes	500.00
1 pair Fairbank's scales	10.00
1 letter copy press	10.00
5 distributing tables	35.00
1 Hall's safe (stamp safe)	150.00
2 stamping tables	20.00
1 clock	10.00
3 side lamps	2.00
1 hanging lamp	5.00
2 water filters	18.00
2 iron cranes	10.00
Dating stamps and cancelers	30.00
3 office chairs	3.00
2 office stools	8.00
2 pair scales	15.00
3 twine rollers	.75
26 office baskets (assorting mail)	50.00
Total	1,151.75

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General delivery office:	
1 standing desk	$25.00
1 office desk	15.00
1 desk (without legs)	5.00
1 Diebold safe	190.00
3 inkstands	6.00
1 arm rest	.75
1 post-office delivery (tin)	.75
1 fumigator	5.00
Total	247.50
General post-office:	
1 standing desk (upstairs)	25.00
1 mimeograph	25.00
200 mail bags (lock)	600.00
200 mail bags (open)	200.00
1 furnace	10.00
Total	860.00
Secretary's office:	
1 safe	500.00
1 desk	15.00
1 desk table	25.00
1 office chair	5.00
1 arm chair	3.00
1 office stool	4.00
Total	552.00
Registered letter office:	
1 magneso-calcite safe	100.00
3 office desks	40.00
2 office chairs	10.00
1 bookcase	15.00
1 iron safe (box)	13.00
1 letter copy press	10.00
Total	188.00
Postal savings bank:	
1 large safe	150.00
1 standing office desk	25.00
1 desk (table) (double row drawers)	25.00
1 desk (table) (single row drawers)	15.00
1 table	5.00
1 office stool	
3 office chairs	6.00
1 bookcase	50.00
3 inkstands	2.00
1 Bates line dating machine	11.00
1 Bates numbering machine	11.00
4 cash trays	3.00
Total	303.00
Money-order business:	
1 safe	500.00
2 standing desks (office)	123.50
1 office desk	25.00
1 copy press	10.00
2 office chairs	1.50
1 office stool	5.00
1 calendar clock	15.00
1 coin table	5.00
1 desk (table)	15.00
1 advice stand	20.00

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Money-order business—Continued.	
3 inkstands	$1.00
5 cash trays	7.50
Total	728.50
Furniture and appurtenances, country offices	1,117.00
Stamps in stock, invoice value	1,367.94
Postal cards	144.05
Stamp dies, in custody of American Bank Note Company, New York	1,200.00
Grand total	8,067.99

Inventory of Government property in the possession of the Audit Bureau August 31, 1898.

1 safe	$200.00
1 filing cabinet	100.00
1 large Koa table	80.00
1 roller-top desk	45.00
1 Densmore typewriter (old)	45.00
4 standing desks (old)	60.00
1 wooden filing cupboard (old)	10.00
5 office chairs and 2 stools	12.00
1 copy press and table	5.00
Total	557.00

6.

Inventory of government property under department of foreign affairs as of August 12, 1898.

Main office:	
High desk (old)	$10.00
4 tables	110.00
Bookcase	50.00
Filing cabinet	50.00
8 chairs	80.00
Rug	50.00
Typewriters and tables	150.00
Pictures and maps	30.00
Safe	200.00
Safe	50.00
Office sundries	50.00
Clock	10.00
Music rack	10.00
Foreign office library	500.00
Total	1,350.00
President's room:	
Koa cabinet table	100.00
Roll-top desk	100.00
2 pier glasses	400.00
17 chairs	85.00
Fancy table	10.00
Rug	50.00
Bookcase	30.00
Bookstand	5.00
Pictures	50.00
Total	830.00
Tower rooms:	
Desks, chairs, and typewriter	150.00
Lounge	20.00
Total	170.00

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Minister's room:	
Desk and tables	$150.00
Rugs	35.00
Bookcase	20.00
Bookcase	50.00
Revolving case	20.00
Filing cabinet	30.00
Side table	30.00
Chairs	90.00
Pictures	50.00
Stationery and sundries	30.00
Wardrobe	150.00
Safe	50.00
Lounge	20.00
Total	725.00
Old palace furniture in use at officers' club	2,000.00
Old palace furniture in storerooms, etc	3,000.00
Total	5,000.00
Military equipment as per annexed schedule	50,000.00
Total	58,675.00
1 case of silver tableware	1,500.00
1 six-oared lapstreak gig	450.00
Grand total	60,625.00

HONOLULU, HAWAIIAN ISLANDS, *August 30, 1898.*

Hon. HENRY E. COOPER,
Minister of Foreign Affairs.

SIR: In pursuance of General Orders, No. 9, I herewith submit an inventory of the government property in the possession of the national guard of Hawaii, as follows:

Ordnance department.

ON HAND.

117,000 rounds 45/70 ammunition.
19,800 rounds .44 ammunition.
65,000 rounds No. 2½ percussion primers.
400 pounds 405 grain .45 bullets.
15 kegs F. G. rifle powder.
Driggs-Schroeder:
- 2 naval landing pieces, 12-pounders.
- 239 common shell.
- 240 canister.
- 1,250 primers.
- 71 cartridge cases.

Hotchkiss:
- 2 2-pound mountain howitzers.
- 870 common shell.
- 946 canister.

8 c. m. Austrian battery:
- 8 brass pieces, with 8 limbers for same.
- 137 percussion shell.
- 50 time shells.
- 198 canister.
- 400 charges powder.
- 465 friction primers, length 2,390.
- 350 percussion heads for shell.

7 cm. Austrian battery:
- 3 brass pieces.
- 16 time shells.
- 13 percussion shells.
- 312 charges powder.
- 1,471 friction primers, length 1.75, also suit Hotchkiss.

Gatling guns:
- 2 5-barrel, mounted on wheels, with 2 limbers and 98 feeders.

Extras, etc.:
- 4 quadrants, or range finders.
- 8 extra sights for 8 cm. guns.
- 1 box tools, wrenches, and turn screw set.
- 22 boxes gas checks, rings, and disks, breech thumbscrews in pairs and partly complete for 8 cm. gun.
- 8 boxes gas checks, rings, and disks, breech thumbscrews in pairs and partly complete for 7 cm. gun.
- 1 box extra parts assorted for 8 cm. gun.

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Ordnance department—Continued.

ON HAND—continued.

Extras, etc.—Continued.
- 4 dummy shells for Driggs-Schroeder gun.
- 10 shells, rifled for 45/70 for Driggs Schroeder gun cases.
- 80 cartridges, for Hotchkiss guns.
- 8 riding saddles, for Austrian battery.
- 8 sets harness, for Austrian battery.
- 16 pack saddles, for Austrian battery.

Rifles:
- 13 Lee-Remington, 45/70.
- 2 Springfield, 45/70.
- 33 Springfield, out of order (used for drill purposes).
- 3 carbines.
- 15 each, cartridge belts, scabbards, and bayonets.
- 30 gun slings.
- 161 sword bayonets and scabbards.
- 3 pistol holsters.
- 208 magazines for Lee-Remington rifles.

Springfield, extra parts:
- 16 new stocks.
- Lot of sears, tumblers, firing pins, screws, springs, extractors, etc.
- 30 ramrods.

Armorer's shop:
- 1 anvil.
- 1 portable forge.
- 1 set blacksmith's tools.
- 1 lathe, 5-inch center foot, and tools.
- 1 2.76 shell crimper.
- 2 vises, bench.
- 3 vises, hand.
- 1 anvil bench.
- 1 hand brace.
- 2 power braces.
- 2 handsaws.
- 1 hack-saw frame.
- 5 assorted hammers.
- 25 assorted files.
- 2 monkey wrenches.
- 1 compass.
- 2 callipers.
- 2 squares.
- 1 set steel stamping letters.
- 1 set steel stamping numerals.
- 1 screw gauge.
- 1 set steel rimers.
- 2 stocks and dies.
- 12 screw taps.
- Twist drills, assorted.
- Punches, assorted.
- 5 soldering bits.
- 1 gasoline lamp.
- 7 bottles chemicals, assorted.
- 25 pounds steel and rod iron, assorted.
- 12 kegs saluting powder.
- 1,500 .38-caliber pistol cartridges.

In hands of field and staff, noncommissioned staff, and companies:
- 13,009 rounds 45/70 ammunition.
- 354 Springfield rifles.
- 54 Lee-Remington rifles.
- 414 bayonets.

In hands of field and staff, noncommissioned staff, and companies—Cont'd.
- 413 bayonet scabbards.
- 413 cartridge belts.
- 135 gun slings.
- 31 revolvers.
- 35 pistol holsters.
- 825 pistol cartridges.
- 34 cartridge boxes.
- 42 swords.
- 43 sword belts.

Quartermaster's department.

On hand:
- 2 drums.
- 1 bugle.
- 5 bedsteads.
- 220 mattress ticks.
- 67 pillow ticks.
- 210 blankets.
- 2 mosquito nets.
- 2 stretchers.
- 134 haversacks.
- 483 canteens.
- 3 United States flags.
- 12 signal flags.
- 48 tents and poles.
- 26 pairs white trousers.
- 7 pairs blue trousers, officers'.
- 27 blouses, enlisted men.
- 7 blouses, officers'.
- 1 cap, officer's.
- 21 rubber coats.
- 90 yards blouse flannel.
- 70 yards blue doeskin.

In hands of field and staff, noncommissioned staff, and companies:
- 9 drums.
- 3 bugles.
- 357 caps, enlisted men.
- 374 blouses, enlisted men.
- 671 pairs white trousers.
- 389 pairs leggings.
- 35 pairs blue trousers, officers'.
- 49 blouses, officers'.
- 26 caps, officers'.
- 2 signal flags.
- 98 bedsteads.
- 98 mattress ticks.
- 98 pillows.
- 127 blankets.
- 20 mosquito nets.

Commissary department.

155 dinner plates.
20 half-circle plates.
26 ice-cream plates.
72 soup plates.
53 pie plates.
13 water glasses.
21 water pitchers.
1 sirup jug.
15 sugar bowls.
11 butter dishes.
2 decanters.

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Ordnance department—Continued.

ON HAND—continued.

Commissary department—Continued.

1 fruit stand.
1 cruet stand and cruets.
6 lantern globes.
5 coffee boilers.
8 large boilers.
1 steam boiler.
3 scales.
2 call bells.
1 cooking range.
7 stew pots.
16 coffee pots.
3 skimmers.
2 strainers.
12 fry pans.
9 pans.
12 tables.
1 ice-cream freezer.
11 molds.
1 potato machine.
2 ice boxes.
2 meat safes.
2 coal shovels.
1 chopping block.
24 gallon iron tubs.
6 gallon iron buckets.
1 coffee mill.

Commissary department—Continued.

1 meat cleaver.
1 meat saw.
1 clock.
74 chairs.
2 coal-oil lamps.
8 soup ladles.
8 soup tureens.
13 dozen soup spoons.
11 salt stands.
6 mustard pots.
8 pepper tins.
15 dozen knives and forks, common.
1 dozen knives and forks, silver plated.
1 bread knife.
1 butter knife.
1 bread box.
1 large tray.
52 teaspoons.
59 teacups.
2 egg-cups.
200 tin cups.
2 pickle jars.
3 tablecloths.
2 dozen napkins.
1 oil painting.

Respectfully submitted.

J. H. FISHER,
Colonel First Regiment, National Guard of Hawaii.

7.

Inventory of Government property under the control of the police department of the Republic of Hawaii, September 1, 1898.

	Number.	Value.
ISLAND OF OAHU.		
Honolulu police station and Oahu jail:		
Rifles	100	$1,000.00
Revolvers	30	360.00
Cartridge belts	80	80.00
Cartridges	2,000	20.00
Belts and clubs	80	160.00
Police badges	60	120.00
Handcuffs	40	80.00
Safes	7	1,000.00
Office furniture, chairs, stationery, etc	.....	500.00
Typewriters	3	150.00
Law books	40	100.00
Cooking utensils, stoves, etc	.....	500.00
Tin plates, cups, pails, etc	.....	300.00
Tools, sewing machines, etc	.....	250.00
Horses, wagons, harness, saddles, and bridles	.....	630.00
Prison clothes, blankets, bedding, etc	.....	500.00
Police boat, oars, etc	1	50.00
Bicycles and lamps	2	100.00
Uniforms and uniform supplies	.....	200.00
Total	.....	6,100.00

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Inventory of Government property under the control of the police department, etc.—Cont'd.

	Number.	Value.
ISLAND OF OAHU—continued.		
District of Koolaupoko:		
Rifles	2	$20.00
Cartridge belts	2	2.00
Belts and clubs	3	6.00
Police badges	4	8.00
Handcuffs	2	5.00
Office furniture, stationery, etc		10.00
Law books		20.00
Prison utensils, blankets, etc		5.00
Total		76.00
District of Koolauloa:		
Belts and clubs	3	6.00
Police badges	4	8.00
Office furniture, stationery, etc		10.00
Law books		10.00
Handcuffs	2	5.00
Total		39.00
District of Waialua:		
Rifles	2	20.00
Belts and clubs	4	8.00
Police badges	4	8.00
Handcuffs	2	5.00
Office furniture, stationery, etc		10.00
Law books		20.00
Prison utensils, blankets, etc		10.00
Total		81.00
District of Waianae:		
Rifles	2	20.00
Belts and clubs	4	8.00
Police badges	3	6.00
Handcuffs	4	10.00
Office furniture, stationery, etc		20.00
Law books		20.00
Prison utensils, blankets, etc		10.00
Total		94.00
District of Ewa:		
Belts and clubs	5	10.00
Police badges	4	8.00
Handcuffs	2	5.00
Office furniture, stationery, etc		20.00
Law books		20.00
Prison utensils, blankets, etc		10.00
Total		73.00
Citizens' guard:		
Rifles	400	4,000.00
Revolvers	28	336.00
Cartridge belts	450	450.00
Ammunition (rounds)	25,000	375.00
Total		5,161.00
Total for island of Oahu		11,624.00
ISLAND OF MAUI.		
District of Wailuku:		
Rifles	10	100.00
Cartridge belts	10	10.00
Ammunition, rounds	500	5.00
Belts and clubs	12	24.00
Handcuffs	10	25.00
Police badges	14	28.00
Safes	3	200.00
Office furniture, stationery, etc		200.00
Typewriter	1	50.00
Law books		50.00
Prison utensils, tools, etc		100.00
Prison clothes, blankets, etc		100.00
Total		892.00

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Inventory of Government property under the control of the police department, etc.—Cont'd.

	Number.	Value.
ISLAND OF MAUI—continued.		
District of Makawao:		
Belts and clubs	6	$12.00
Badges	7	14.00
Handcuffs	10	20.00
Office furniture, stationery, etc		10.00
Law books		10.00
Prison utensils, blankets, etc		20.00
Total		86.00
District of Hana:		
Belts and clubs	6	12.00
Police badges	7	14.00
Handcuffs	5	12.50
Safe	1	50.00
Office furniture, stationery, etc		25.00
Law books		50.00
Prison utensils, blankets, etc		10.00
Total		173.50
District of Lahaina:		
Rifles	2	20.00
Belts and clubs	8	16.00
Police badges	9	18.00
Handcuffs	8	16.00
Safe	1	50.00
Office furniture, stationery, etc		75.00
Law books		20.00
Prison utensils, blankets, etc		50.00
Total		265.00
District of Molokai:		
Belts and clubs	10	20.00
Police badges	12	24.00
Handcuffs	2	4.00
Office furniture, stationery, etc		10.00
Prison utensils, blankets, etc		5.00
Total		63.00
Citizens' guard:		
Rifles	50	500.00
Ammunition, rounds	1,000	15.00
Total		515.00
Total for island of Maui		1,994.50
ISLAND OF KAUAI.		
District of Lihue:		
Rifles	4	40.00
Revolvers	3	30.00
Ammunition, rounds	1,000	15.00
Belts and clubs	7	14.00
Police badges	8	16.00
Handcuffs	18	36.00
Safes	2	150.00
Office furniture, stationery, etc		20.00
Law books		25.00
Prison utensils, blankets, clothes, etc		200.00
Total		546.00
District of Koloa:		
Belts and clubs	4	8.00
Police badges	5	10.00
Handcuffs	6	12.00
Law books		10.00
Prison utensils, blankets, etc		10.00
Total		50.00
District of Waimea:		
Rifles	2	20.00
Revolver	1	12.00
Belts and clubs	6	12.00
Police badges	7	14.00
Handcuffs	8	16.00

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Inventory of Government property under the control of the police department, etc.—Cont'd.

	Number.	Value.
ISLAND OF KAUAI—continued,		
District of Waimea—Continued.		
Safe	1	$50.00
Office furniture, stationery, etc		20.00
Law books		15.00
Prison supplies		10.00
Total		169.00
District of Kawaihau:		
Belts and clubs	3	6.00
Police badges	4	8.00
Handcuffs	6	12.00
Total		26.00
District of Hanalei:		
Belts and clubs	3	6.00
Police badges	4	8.00
Handcuffs	8	16.00
Prison supplies		10.00
Total		40.00
Citizens' guard:		
Rifles	40	400.00
Ammunition (rounds)	800	12.00
Total		412.00
Total for the Island of Kauai		1,243.00
ISLAND OF HAWAII.		
Sheriff's office at Hilo jail:		
Rifles	5	50.00
Revolvers	5	60.00
Cartridge belts	5	5.00
Cartridges	500	7.50
Belts and clubs	15	30.00
Police badges	18	36.00
Handcuffs	8	20.00
Safes	2	300.00
Typewriter	1	60.00
Office furniture, chairs, stationery, etc		100.00
Law books		50.00
Tin plates, cups, pails, etc		50.00
Prison clothes, blankets, bedding, etc		200.00
Tools, etc		50.00
Cooking utensils, stoves, etc		100.00
Total		1,118.50
District of North Hilo:		
Belts and clubs	3	6.00
Police badges	4	8.00
Handcuffs	2	5.00
Office furniture, stationery, etc		10.00
Prison utensils, blankets, etc		10.00
Total		39.00
District of Hamakua:		
Belts and clubs	5	10.00
Police badges	6	12.00
Handcuffs	2	5.00
Office furniture, stationery, etc		10.00
Law books		10.00
Prison utensils, blankets, etc		50.00
Total		97.00
District of North Kohala:		
Belts and clubs	5	10.00
Police badges	6	12.00
Handcuffs	2	5.00
Office furniture, stationery, etc		10.00
Law books		10.00
Prison utensils, blankets, etc		20.00
Total		67.00

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Inventory of Government property under the control of the police department, etc.—Cont'd.

	Number.	Value.
ISLAND OF HAWAII—continued.		
District of South Kohala:		
Belts and clubs	3	$6.00
Police badges	4	8.00
Handcuffs	2	5.00
Law books, stationery, etc		12.00
Prison utensils, blankets, etc		10.00
Total		41.00
District of North Kona:		
Belts and clubs	6	12.00
Police badges	7	14.00
Revolver	1	10.00
Handcuffs	4	10.00
Office furniture, stationery, etc		10.00
Law books		10.00
Prison utensils, blankets, etc		12.00
Total		78.00
District of South Kona:		
Belts and clubs	6	12.00
Police badges	7	14.00
Revolver	1	10.00
Handcuffs	2	5.00
Office furniture, stationery, etc		10.00
Law books		10.00
Total		61.00
District of Kau:		
Belts and clubs	3	6.00
Police badges	4	8.00
Handcuffs	2	5.00
Office furniture, stationery, etc		10.00
Law books		10.00
Prison utensils, blankets, etc		20.00
Total		59.00
District of Puna:		
Belts and clubs	3	6.00
Police badges	4	8.00
Handcuffs	2	5.00
Law books		10.00
Prison utensils, blankets, etc		10.00
Total		39.00
Citizens' guard:		
Rifles	80	800.00
Revolvers	1	12.00
Belts	54	54.00
Ammunition, rounds	1,600	24.00
Total		890.00
Total for Island of Hawaii		2,489.50

RECAPITULATION.

Island of Oahu	$11,624.00
Island of Maui	1,994.50
Island of Kauai	1,243.00
Island of Hawaii	2,489.50
Total	17,351.00

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8.

Recapitulation, from official reports, of the valuation of imports into Hawaii, the duties collected thereon, and the duties which would have been collected under the Dingley tariff law.

CALENDAR YEAR 1897.

	Value of imports.	Duties collected by laws of Hawaii.	Duties collectible under United States laws.
Great Britain	$790,486.55	$114,956.27	$230,428.87
Germany	144,835.26	84,734.76	94,178.80
China	259,501.26	122,801.87	157,812.43
Japan	252,408.50	176,989.47	146,175.21
Australia and New Zealand	18,829.56	2,235.36	7,336.42
Canada	14,466.36	5,173.53	4,940.63
Isles of Pacific	496.24	49.60	389.03
France	14,855.10	3,978.35	6,515.09
All other countries	51,888.47	37,564.33	199,411.17
Free by the Civil Code of Hawaii.			
Great Britain	68,072.38	.....	4,875.34
Germany	33,767.75	.....	2,243.34
China	646.67	.....	161.82
Japan	20,045.87	.....	1,405.51
Australia and New Zealand	102,400.19	.....	36,763.50
Canada	33,975.32	.....	4,558.30
Isles of Pacific	5,451.95	.....	10.75
France	11,650.31	.....	4,960.47
All other countries	97,046.93	.....	540.25
Total	1,920,824.67	548,483.54	902,706.93

FIRST SIX MONTHS 1898.

Great Britain	$589,817.37	$75,061.67	$202,907.93
Germany	109,796.73	43,924.88	57,563.07
China	101,996.64	57,298.48	73,527.67
Japan	112,646.06	20,678.72	44,500.61
Australia and New Zealand	10,090.47	1,561.58	4,492.08
Canada	7,007.69	2,172.53	2,414.02
Isles of Pacific	148.05	14.80	123.20
France	8,739.88	4,110.71	5,140.14
All other countries	36,739.34	35,215.51	249,573.68
Free by Civil Code of Hawaii.			
Great Britain	91,736.14	.....	5,398.34
Germany	18,254.95	.....	5,110.72
China	179.50	.....	.....
Japan	16,465.53	.....	2,775.30
Australia and New Zealand	29,252.49	.....	9,305.25
Canada	17,362.50	.....	2,883.01
Isles of Pacific	6,884.00	.....	.....
France	11,978.29	.....	3,840.75
All other countries	57.50	.....	81.20
Total	1,169,153.13	240,038.88	669,636.97

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REPORT OF COMMITTEE ON CABLES AND TELEGRAPHS.

The committee on cables and telegraphs have investigated the subject of telegraphic cable communication between Hawaii and the Continent, and between the islands, and respectfully submit the following report:

JNO. T. MORGAN.
W. F. FREAR.

REPORT.

No calculation that is approximately accurate can now be safely made of the income of a postal-telegraph line to the Hawaiian Islands from the continent or between the islands.

It can be safely assumed, however, that the necessity for such a cable line is indispensable and that its cost will bear only a slight relation to the commercial and military advantages that must result from its construction.

In many other instances the income of our postal system has been quite below the cost of the transmission of the mails between certain distant commercial or strategic points, and such deficit has been supplied from the general Treasury, with the cheerful approbation of the country.

If the demand for a postal telegraph line to Hawaii is sufficient, on the general grounds of national policy, the question of the duty to take national control of the line can not be met by the suggestion that this is a new departure in furnishing the vehicles, or conduits, for the transmission of postal matter. It is not, in fact, a new thing for the United States to construct lines of telegraph, or conduits, for the purposes of the Army, or the Weather and Life-Saving Service, or for the distribution of mails in large cities.

But the annexation of the Hawaiian Islands has created a new situation, which requires new provisions for the quick dispatch of intelligence such as is ordinarily sent by the mails.

There is, indeed, no feature of the postal service that is more necessary, in peace or war, for the benefit of commerce, navigation, markets, and exchanges, or in conveying personal intelligence between the people, or in giving them protection against the ravages of infectious diseases, than a cable between the Pacific States and the Hawaiian Islands under the impartial and exclusive control of the Government of the United States.

In the outset of the new policy that we must inaugurate to meet the remarkable events of the year 1898 it is a fortunate situation that places these islands and others under the exclusive legislative control of Congress.

Congress can rightfully and successfully adjust the public institutions of a State in its formative period so as to prepare it for the highest usefulness to the Union when it shall acquire the sovereign rights and dignity of statehood.

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Without attempting to state the many instances in which Congress should employ these powers, it is very clear that in matters relating to interstate and foreign commerce, to navigation, bays, harbors, wharves, and docks, and to postal facilities and post roads and lines of telegraphic communication, the power is clear and the duty is manifest.

An indispensable factor in all commercial, military, and diplomatic relations with countries that are beyond the seas is the telegraph cables that convey information with immediate dispatch.

This fact is too obvious and is too vital to the safety of every maritime country to admit of discussion.

It may be safely stated that at no point in the world is there greater need for a central cable station than at Pearl Harbor in Hawaii, nor is there any point in either of the great oceans where the control of lines of telegraphic cables will give greater influence to the power that directs the use of them, either in commerce or war.

A central cable station in Hawaii will ultimately form a plexus of telegraphic lines in which the cables will meet from all ports of the great circuit of our coasts, and from the Asiatic coasts as far south as Hongkong; and from Hawaii lines will radiate through the islands of the South Pacific to the Philippines, to Australia, and the coast of South America.

In these advantages the Hawaiian group has no competitor, and they could scarcely have been more advantageously placed as a point for the concentration of lines of telegraph cables. Through a long period of years these benefits will necessarily increase, and will furnish to the people facilities of cheap correspondence that no lines of steamers can afford.

In dispensing with the slow and costly methods of mail transmission for business correspondence, the rates will be reduced and the speed increased until it will attract the universal patronage of business men.

A single line of cable from the coast to Hawaii, exclusively authorized to convey messages as postal matter, would soon become a "trunk line," and would gather business from Asia and the islands of the South Pacific in such volume as to pay the interest on the cost and all expenditures for repairs and operation. It could have no competitor in business and could afford this facility to business at a rate of tolls that would be a great economy.

The five larger islands of the Hawaiian group are separated by three channels that aggregate about 118 miles in width. To maintain a rapid communication across these channels, which are rough water, not less than six vessels would need to be constantly employed, with a reserve of two or three vessels to meet emergencies. The crews for these vessels, and the fuel, to be supplied from the coast, would justify a heavy expenditure for mail service which could not probably be reduced by competition.

The conformation of these islands is such that a plateau connects all of them, on which a cable can be laid in water of shallow depths as compared with those of the adjacent seas.

The trend of the islands from Kaui Island on the northwest to the southern part of Hawaii virtually presents a frontage of about 350 miles to the Pacific Ocean on each side of the group, along the whole length of which the cable stations on the islands would be so many outlooks upon the sea.

If this cable system is extended to Samoa, and to the Carolines and Manila, the security it would afford our coasts against sudden attack and the ravages of approaching storms and the visitations of epidemic diseases is a matter that is worthy of serious consideration.

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The experience of European countries in the use of electric telegraphs as vehicles of the postal service demonstrates their importance and the wise economy of their use both to the people and the Governments that employ them.

With the distinctive power conferred upon Congress in the Constitution to establish post-offices and post-roads, and the exclusive power to provide for and regulate all mail communications, there can be no question of the power of Congress to select the best and most economical means for this work, or that the conveyance of mails may be extended into any part of the world, or that Congress may use a cable line under the seas as well as a post-road on the land.

This is the propitious time for the initiation of this service in the Pacific Ocean, and Hawaii is the central point in the great arc of the circle that describes the coast of North America.

At this central point all cable lines through the Pacific Ocean to points north of the equator must unite. Under the present state of the art in the construction and operation of transoceanic cable lines, this

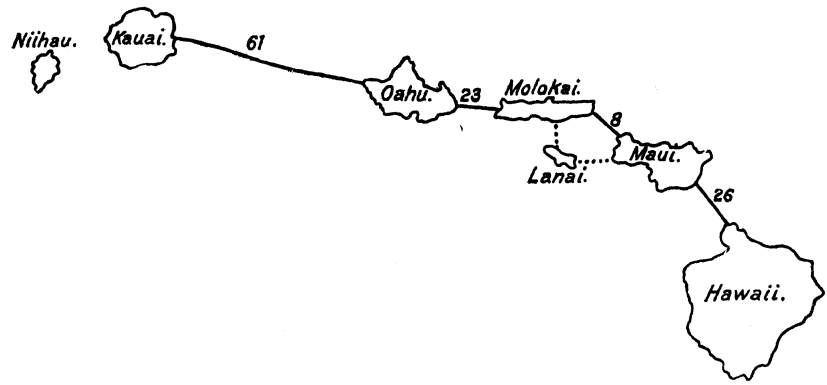

DIAGRAM AND ROUTES OF MR. PRITCHETT, CHIEF OF THE UNITED STATES COAST SURVEY.

group of islands is the only place where a line can be successfully operated in the North Pacific Ocean. This fact, while it remains unchanged, gives to a cable connecting Hawaii with the continent an immense volume of work, which must yield a great revenue, if no other cable is constructed.

The annexed rough draft of the relative location of the islands (not including Neckar Island), prepared by a gentleman of much ability, shows the distances between them and the depth of water on the connecting plateaus, with an estimate of the cost of the cable to connect them.

The eagerness of private investors to lay cables to Hawaii and to connect the islands, under contracts with the Government for supplying cable service for official messages, is a convincing proof that under such conditions they would be valuable property.

Aside from the fact that in a few years the Government business would refund the cost of the cables, if paid for at ordinary rates, it is of supreme importance that the Government should have the absolute military control of the line that does its work.

To be able to control the working of the cable only through the enforcement of legal penalties for crimes incident to this responsible branch of the public service would be a serious defect that might result in much trouble and a dangerous exposure to treachery.

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If private investors desire to establish other lines, under proper regulations, there is no objection to their enjoyment of that privilege, but that will never be done in competition with a Government line, in the absence of a subsidy from the Government.

The subcommittee recommend to the commission that a separate bill be recommended providing for the construction of a telegraphic cable between Hawaii and the coast of California by the United States, and cables to connect the Hawaiian Islands with each other, all to be owned and controlled exclusively by the Government of the United States.

Width of channels between principal islands of the Hawaiian group from extreme point to extreme point.

	Distance.	Greatest depth.
	Naut. miles.	*Feet.*
Kauai to Oahu	61	9,600
Oahu to Molokai	23	2,160
Molokai to Maui	8	660
Maui to Hawaii	26	6,000
Total	118	

To include Lanai would require about 10 miles more of cable. The cost of the entire cable would be something under $100,000. The Hawaiian Government has estimates of the cost.

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REPORT OF COMMITTEE ON THE PUBLIC DEBT.

Hon. SHELBY M. CULLOM,
Chairman of the Hawaiian Commission:

I have the honor to present the accompanying statement on the public debt of Hawaii by Mr. Samuel M. Damon, the minister of finance, which I adopt as the report of the committee on the public debt.

SANFORD B. DOLE.

HONOLULU, *September 2, 1898.*

Hon. S. B. DOLE, *of the Hawaiian Commission.*

SIR: In response to the request for information on the public debt and matters relative thereto of the government of Hawaii on the 12th of August of the present year, I have the honor to make the following report:

The financial obligations of this government on that date I find to be as follows, not taking into consideration, however, the current monthly expenditures, salary lists, and pay rolls that are settled by warrants of the auditor-general on the treasury, drawn during the month, and all of which have been paid as presented.

The obligations of the government are comprised under the heads of "Bonded debt" and "Postal savings bank."

Detailed statement of bonded debt, August 12, 1898.

ACT OF AUGUST 5, 1892.

[Redeemable after 1887. Payable in 25 years.]

Stock A, 6 per cent bonds	$14,000	
Stock E, 6 per cent bonds	8,000	
Stock O, 6 per cent bonds	2,200	
Stock U, 6 per cent bonds	10,000	
		$34,200

ACT OF OCTOBER 15, 1886.

[Redeemable in and after 1897. Payable in 20 years.]

Loan in London	$980,000	
Stock A, 6 per cent bonds	373,000	
Stock E, 6 per cent bonds	124,000	
Stock O, 6 per cent bonds	18,000	
Stock U, 6 per cent bonds	505,000	
		2,000,000

ACT OF AUGUST 15, 1888.

[Redeemable after 1893. Payable in 20 years.]

Stock A, 6 per cent bonds	$140,000	
Stock U, 6 per cent bonds	50,000	
		190,000

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ACT OF AUGUST 6, 1890.

[Redeemable after 1895. Payable in 10 years.]

Stock A, 5 per cent bonds	$18,000	
Stock E, 5 per cent bonds	9,000	
Stock O, 5 per cent bonds	2,100	
		$29,100

ACT OF OCTOBER 24, 1890.

[Redeemable after 1895. Payable in 10 years.]

Stock A, 6 per cent bonds		95,000

ACT OF SEPTEMBER 7, 1892.

[Redeemable after 1897. Payable in 20 years.]

Stock A, 6 per cent bonds	$26,000	
Stock E, 6 per cent bonds	31,500	
Stock O, 6 per cent bonds	11,700	
Stock A, 5 per cent bonds	8,000	
Stock E, 5 per cent bonds	33,500	
Stock O, 5 per cent bonds	8,700	
Stock A, 4½ per cent bonds	1,000	
Stock E, 4½ per cent bonds	7,000	
Stock O, 4½ per cent bonds	2,000	
		129,400

ACT OF JANUARY 11 AND FEBRUARY 18, 1893.

[Redeemable in 1898. Payable in 20 years.]

Stock A, 6 per cent bonds		650,000

ACT OF JUNE 30, 1896.

[Redeemable in 1901. Payable in 20 years.]

Stock A, 5 per cent bonds	$352,000	
Stock E, 5 per cent bonds	9,000	
Stock O, 5 per cent bonds	1,000	
Stock U, 5 per cent bonds	200,000	
		562,000
		3,689,700

The proceeds of sales of bonds have been with a few exceptions of a minor nature confined to expenditures on public buildings, harbor improvements, new roads and bridges, and the encouragement of immigration.

HAWAIIAN POSTAL SAVINGS BANK.

This institution was established, by act of the legislature in 1884, to encourage the deposit of small savings at interest, with the security of the Government for repayment thereof, and was opened for business July 1, 1886, with His Majesty Kalakaua as the first depositor.

On the 12th day of August, 1898, the amount due to 10,555 depositors, classified by nationalities as follows:

Americans		602
British		526
Germans		329
Hawaiians		1,291
Portuguese		495
Sundry nationalities		221
Chinese under the board of immigration		7,091
Total		10,555
Amounted to	$836,297.34	
And to 68 special depositors for sums exceeding $500, the sum of	77,750	
A total of		914,047.34

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These deposits bear interest at 4½ per cent per annum, and interest is credited to the several accounts on the 31st day of December of each year, and is a charge on the current revenues of the Government.

The present cash reserve to meet the demands is $112,409.23, of which $105,000 is on special deposit at the treasury.

The surplus over the requirement of the cash minimum reserve of $50,000 has been used by the Government for public works and permanent improvements.

During the twelve years of its existence every call by depositors has been promptly met, and the general confidence and usefulness to the community has been shown in its use by all nationalities.

The foregoing shows the gross public debt on August 12, 1898, to be $4,603,747.34. On the same date there was cash in treasury to the credit of the following accounts, certified to by the register of—

Public accounts	$546,739.04

Cash on hand in the Hawaiian Treasury on August 12, 1898.

Current account, balance	$284,014.51
Loan fund account, balance	38,370.17
Total	322,384.68

Special deposits.

Land sales	$66,026.23
Road tax	53,270.83
School tax	54.30
Hawaiian Postal Savings Bank	105,000.00
Total	224,354.36

I hereby certify that the above is a true and correct statement as of above date.

W. G. ASHLEY,
Registrar of Public Accounts.

I would add, in relation to the Postal Savings Bank, that deposits up to $500 only are credited with interest.

Any deposit of three months' standing may, at the option of the depositor, be withdrawn and exchanged for a five-twenty government bond, with interest at 4½ per cent.

Besides these provisions the bank may, at its discretion, issue what are called "term certificates," for not over three months for any amount up to $5,000, and not to exceed in all $150,000 at any one time, at 4½ per cent.

Deposits amounting to over $100 may be withdrawn at ninety days' notice; under $100 without notice.

I have the honor to be, sir, your most obedient servant,

S. M. DAMON,
Minister of Finance.

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REPORT OF COMMITTEE ON FINANCE.

THE HAWAIIAN CURRENCY.

The gold coins of the United States are the only unlimited legal tender. (Civil Laws, sec. 665.)

Hawaiian silver coins are legal tender for amounts not exceeding $10. United States dimes and half dimes are also legal tender in limited amounts. (Civil Laws, secs. 666 and 667.)

COINAGE.

During the years 1884, 1885, and 1886 the following Hawaiian coins were put in circulation, having theretofore been coined at the United States mint in San Francisco (Biennial Report Minister of Finance, 1890, p. 7):

Dollars	500,000
Halves	350,000
Quarters	125,000
Dimes	25,000

This is the only Hawaiian coinage ever executed.

PAPER CURRENCY.

By Session Laws 1895, act 19 (Civil Laws, secs. 672–675), the minister of finance was authorized to issue gold and silver certificates of deposit, upon setting aside sufficient of the respective coins for the payment of such certificates. The act also provided for the retirement of all outstanding certificates of deposit.

Under this authority certificates of deposit have been issued to the amount of $272,500, for the redemption of which silver coin is now held in the treasury. These certificates have been issued in the following denominations:

5 dollars	$12,500
10 dollars	35,000
20 dollars	50,000
50 dollars	75,000
100 dollars	100,000

There remains outstanding of old issues of silver certificates made under former laws a total amount of $39,500. No record remains in the office of the finance department showing the denominations of these certificates, but silver coins are on deposit in the treasury for their redemption.

Although authorized by the act above cited, no gold certificates have been issued. The Hawaiian currency consists therefore of silver coins amounting to $1,000,000, of which $312,000 is in circulation in the form of silver certificates.

Hawaiian currency in the treasury at this date (August 23, 1898), exclusive of silver held for redemption of certificates, is approximately $101,500.

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By the statutes authorizing coinage of silver (Session Laws 1880, chap. 37, and Session Laws 1892, chap. 8), all coins were required to be made of the same weight and fineness as the United States coins of the same value.

S. M. CULLOM.

Hon. SANFORD B. DOLE,
Of the Hawaiian Commission.

SIR: In the year 1883, by act of the Legislature of the Hawaiian Government, the sum of $1,000,000 was authorized to be issued in Hawaiian silver currency. This amount was coined by the United States mint of the same weight and fineness as the corresponding amount in United States silver currency. The denominations were:

1-dollar pieces	$500,000
50-cent pieces	350,000
25-cent pieces	125,000
Dimes	25,000
Total	1,000,000

Of this amount the dime has practically gone out of circulation. Of the entire amount a fair estimate would be that $50,000 (including the dimes) have gone out of circulation and disappeared. There remains, therefore, the sum of $950,000, approximately, in Hawaiian silver currency that are legal tender under the present laws and institutions of this country to the amount of $10 in any one payment. This currency, however, is only of value to the remaining portions of the United States as its pure silver bears to the piece, based on the current value of silver for the day.

While your honorable body is considering the subject of the obligations of this Government, I desire to call your attention to the subject of its withdrawal from circulation and substitution by a coin that would be legal tender in all parts of the United States.

Owing to the nature of the population of this country silver will always be used here to a greater or less extent, and I desire to press upon your attention the necessity of considering this important subject while the Hawaiian Commission is in session.

I have the honor to be, sir, your obedient servant,

S. M. DAMON,
Minister of Finance.

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REPORT OF COMMITTEE ON FISHERIES.

HONOLULU, HAWAIIAN ISLANDS, *September 7, 1898.*

Hon. SHELBY M. CULLOM,
Chairman of the Hawaiian Commission.

SIR: Your committee on fisheries respectfully submit the following report:

Each of these islands may be roughly described as consisting of one or more central lofty mountains with sides sloping rapidly toward the sea. There are naturally few lakes or ponds, and these are of inconsiderable size. The streams, while numerous, are of small volume, short and of rapid fall. Much of the coast line is skirted with a coral reef, between which and the shore there is a space of shallow water. From the reef, and where there is no reef from the shore, the water deepens rapidly.

As might be expected, there are few fish in the streams and lakes, and these are of little value. They belong, as at common law, to the owners of the soil under the streams and lakes.

There was formerly little animal food upon the land, and consequently the natives, who lived mostly along the coast, looked to the sea as their chief source of animal food. It followed that their sea fisheries were regarded as among their most valuable properties. These were closely connected with the ownership of land; indeed, they were regarded as appurtenances to the adjoining or neighboring lands, and the laws or customs governing them can be explained only by reference to the system of land tenures formerly existing, which was of a feudal nature.

Without going into too great detail, the land may be said to have been divided up into large tracts and small tracts. The large tracts commonly included a strip of land extending from the summit or well up on the slopes of the central mountain of an island to the sea. These were called ahupuaas and were owned by chiefs or lords, called konohikis. Within these were the smaller tracts, called kuleauas, occupied by the common people, who were regarded as tenants of the owners of the larger tracts. There were also other tracts, generally intermediate in size, called ilis, some of which were independent, like the larger tracts, and others of which were subordinate, like the smaller tracts. The King was lord over all.

As lord paramount the King could take and redistribute the fishing rights as well as the lands of his subjects. This he did in 1839, taking all fishing grounds and giving one portion of them to the common people, one portion to the landlords, and reserving one portion for himself, at the same time prescribing certain restrictions and regulations under which the rights thus conferred were to be exercised. This was done by statute, the provisions of which, as amended from time to time, are still in force. In 1846 and the following few years the change was made from the feudal system to that of several ownership, and titles were awarded by commissioners to quiet land titles to those who proved

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ownership or right of occupancy under the preexisting system. In a few cases titles to fisheries were awarded, or afterwards patented or allowed by commissioners of boundaries, by metes and bounds, but in most cases, where the award of patent referred to fisheries at all, it conferred merely a right of fishery as an appurtenance to the land without specifying the extent of the fishery, and left it to be determined either by the general provisions of the statute or the testimony of witnesses. In the majority of cases, however, no reference was made to fisheries, and the right rested solely on the statute. In 1848 the great division of lands was made by which the King gave to the Government a large number of royal lands, and upon the downfall of the monarchy the crown lands also became Government lands.

In shoal waters along the shores there are many fish ponds, made artificially by the construction of stone walls of semicircular form with the shore line as a diameter, and with small openings through the wall for the flow of the tide. These are found on Government lands as well as private lands.

Now, bearing in mind the foregoing facts, the sea fisheries of these islands, except as expressly awarded or patented, are governed as follows by statute:

All fishing grounds appertaining to government lands or otherwise belonging to the government, excepting fish ponds, are free for all persons. The minister of the interior may, however, for the protection of the fishing grounds, forbid the taking of fish at certain seasons. There has thus far been no occasion for the exercise of this power by the minister. The fish ponds owned by the government are leased to private persons. Their future disposition is an appropriate subject for consideration by the committee on public lands. Upon the sale of any government land the fisheries appertaining thereto remain free. No person residing without the islands may take fish within the waters of the islands for the purpose of sale without the islands. The fishing grounds from the shore to the reef, and where there is no reef for a distance of one mile, belong to the konohikis, for the use of themselves and their tenants. Each konohiki may set apart one variety of fish for himself, or, on consultation with his tenants, may prohibit all fishing during certain seasons, and during the fishing season receive from his tenants one-third of all fish taken. The tenants may take fish either for themselves or for sale or exportation. No person shall use giant powder or other explosive substance in taking fish. No person shall take the young of the mullet and awa under four inches in length, except for the purpose of stocking ponds.

It will thus be seen that fisheries are governed here by principles recognized by the common law. There are common fisheries, commons of fishery, and several fisheries; but owing to the peculiar conditions that have existed here the two latter classes of fisheries exist here to a much larger extent than in other English-speaking countries. Rights of fishery here are, as at common law, subject to rights of navigation. They are subject also to statutory regulation.

Until recently the fishing industry has been engaged in chiefly by Hawaiians, but of late the Chinese and Japanese have entered largely into it. They fish both on the free fishing grounds and on private grounds, including fish ponds, which they lease from the owners. No fishing on a large scale has yet been undertaken, but a fishing company of whites has recently been formed, which is to work with a sailing vessel about 70 feet in length, with auxiliary steam power. Fishing in shallow water near shore is conducted mostly with nets; that in deep

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water with hook and line. There are shoals or banks offshore, especially in the channels between Oahu, Molokai, Maui, Kahoolawe, and Lanai, which are said to be good fishing grounds.

Fish are not found in such quantities in Hawaiian waters as in some other waters, and yet the number of species is perhaps unusually large, amounting to several hundred, of which about 100 may be found in the markets. These are of great variety of size, shape, and color, and include many species of excellent food qualities. The sales at the Honolulu fish market amount to from 40,000 to 80,000 fish of varying sizes per week. These are all inspected by an officer of the board of health.

Hawaiian waters afford rare opportunities for the study of fish and other marine life. While some scientific investigation has been made in this direction, it has been very limited, owing to lack of facilities. The establishment here of a station under the United States Commissioner of Fish and Fisheries would no doubt prove to be of great benefit to both the people of these islands and those of the mainland. In this connection it may not be out of place to add that there is some prospect for the establishment here of a marine aquarium and biological laboratory by the trustees of the Bernice Pauahi Bishop Museum, and that the Hawaiian legislature at its last session authorized the minister of the interior to reserve a portion of the reef on the southeastly side of the channel of Honolulu harbor for a marine park, and to enter into an agreement with the said trustees for the establishment of such aquarium and laboratory within said park.

Very respectfully,

W. F. FREAR,
JNO. T. MORGAN.

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REPORT OF COMMITTEE ON PUBLIC LANDS.

The Committee on Public Lands, to whom was referred the subject for investigation, beg leave to report as follows:

Prior to the year 1846, all the lands of the Hawaiian Islands belonged, in legal contemplation, to the King, and the chiefs and people, as tenants, by a system closely resembling the feudal system of England, held their respective parcels by payment of rent or rendering of service. In that year King Kamehameha III granted to his chiefs and people certain portions of the land, to Government purposes certain other portions, and reserved to himself the remainder. By an act passed June 7, 1848, the Legislature accepted this grant, and confirmed to the King, his heirs and successors, certain described lands which were thenceforth known as crown lands. In the act organizing the executive departments, provision was made for the appointment of a land commission to receive and pass upon the claims of occupants of lands to their respective holdings in the portion of lands set apart for the chiefs and people. This commission heard the testimony of claimants, caused surveys to be made, and issued to the occupants entitled thereto certificates called "land commission awards." These awards established the right of the grantee to the possession of the land and entitled him, upon payment of one-fourth of the value of the bare land, to receive a royal patent for his holding. These awards, and the patents issued pursuant thereto, are the source of title to all the lands not public lands, or reserved as crown lands.

The lands thus confirmed to the chiefs and known according to their extent as ahupuaas or ilis, amounted to 1,571,341 acres, and the lands confirmed to the common people, and known as kuleanas, aggregated 28,658 acres. (Hawaiian Annual, 1898, p. 34.)

The crown lands reserved to the King under the act of 1848 were in 1865 (act January 3, 1865) placed in the hands of a body known as the commission of crown lands. This body was empowered to lease the crown lands for periods not exceeding thirty years, but not to alienate the same. The net rentals belonged to the monarch as a personal perquisite.

The Government lands were authorized to be sold by the minister of the interior, with the consent of the executive council (Civil Laws, sec. 169–171).

By an act passed July 9, 1850, one-twentieth of all public lands was set apart for the support of schools. Provision was made for the selection by, and patenting to, the board of education of the lands thus set apart, and the board of education was empowered to sell and lease lands thus received (Civil Laws, sec. 157). Part of the lands thus set apart are used as sites for school buildings, part is leased, and part has been sold. (See Table No. I.)

In 1884 an act was passed for the setting aside of homesteads to landless applicants on liberal terms, but it seems to have been very little used, only 557 holdings having been taken up under it, of which 256

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have been patented. Under this method a party was prohibited from acquiring more than 2 acres of taro or wet land and more than 20 acres of dry land. The fee for such settlement was $10.

In 1891, Queen Liliuokalani divided a part of her crown-land holdings in Hawaii into small tracts and provided for the leasing of them to homestead occupants upon easy terms.

The foregoing roughly outlines the enactments regarding the disposition of the lands up to the year 1895, when the legislature met under the Republic. The legislature of that year passed what it designated as the "land act, 1895," which provided a comprehensive system for the care and disposition of the public domain.

By this act the "crown lands" are treated as having vested in the Republic upon the abolition of the monarchy, and are now embraced as public lands. The public lands are placed under the control of a board of three commissioners, one of whom is the minister of the interior. The other two are appointed by the President, with the approval of the cabinet, and one of them is designated as agent of public lands. The act divides the islands into six land districts and provides for each district a subagent of public lands and ranges. It divides the public lands into—

I. *Agricultural lands.*—First class: Land suitable for the cultivation of fruit, coffee, sugar, or other perennial crops, with or without irrigation. Second class: Land suitable for the cultivation of annual crops only. Third class: Wet lands, such as kalo and rice lands.

II. *Pastoral land.*—First class: Land not in the description of agricultural land, but capable of carrying live stock the year through. Second class: Land capable of carrying live stock only part of the year, or otherwise inferior to first-class pastoral land.

III. *Pastoral agricultural land.*—Land adapted in part for pasturage and in part for cultivation.

IV. *Forest land.*—Land producing forest trees, but unsuitable for cultivation.

V. *Waste land.*—Land not included in the other classes.

The commissioners are authorized to dispose of lands in the following modes:

1. At public auction, for cash, in parcels of not over 1,000 acres. The consent of the executive council is required to this disposal.
2. At public auction, upon part credit, in parcels not exceeding 600 acres. Like consent is required.
3. Without auction sale, in exchange for private lands, or by way of compromise.
4. By lease, at public auction, for not more than twenty-one years.
5. Homestead leases.
6. Right-of-purchase leases.
7. Cash freeholds.

GENERAL QUALIFICATION OF APPLICANTS.

Applicants for land, under the modes named above, must be over 18 years of age; must be citizens by birth or naturalization, or have received letters of denization or special rights of citizenship; be under no civil disability for any offense, nor delinquent in the payment of taxes. Special qualifications are named under the respective systems, as follows:

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HOMESTEAD-LEASE SYSTEM.

The homestead-lease system permits the acquirement of public land by qualified persons without other payments than a fee of $2 upon application and a fee of $5 upon issuance of homestead lease.

The limit of area in the different classes of land which may be acquired under homestead lease is: Eight acres first-class agricultural land; 16 acres second-class agricultural land; 1 acre wet (rice or taro) land; 30 acres first-class pastoral land; 60 acres second-class pastoral land; 45 acres pastoral agricultural land.

SPECIAL QUALIFICATIONS OF APPLICANTS FOR HOMESTEAD LEASE.

Any person having the general qualifications (as to citizenship, etc.) who is not the owner in his own right of any land in the Hawaiian Islands, other than "wet land" (rice, taro, etc), and who is not an applicant for other land under the act, may apply under this part of the act, and such application may cover one lot of wet land in addition to other land, if reasonably near. Husband and wife may not both be applicants.

Applications must be made in person at the office of subagent of the district, accompanied by sworn declaration of qualifications and a fee of $2.

CERTIFICATE OF OCCUPATION.

The successful applicant receives a certificate of occupation which entitles him to occupy the described premises and to receive a homestead lease for nine hundred and ninety-nine years, if conditions of certificate of occupation have been fulfilled, the conditions being: That the occupier shall, before the end of two years, build a dwelling house and reside on the premises. He shall maintain his home on the premises from and after the end of two years from date of certificate. He shall before the end of six years from date of certificate have in cultivation not less than 10 per cent of the land, or have in cultivation 5 per cent of the land and in good growing condition not less than ten timber, shade, or fruit trees per acre on agricultural land; or, if pastoral land, fence the same within six years. He shall pay the taxes assessed upon the premises within sixty days after the same are delinquent. He shall perform any conditions of the certificates for the planting or protection of trees, or prevention or destruction of vegetable pests that may be on the premises.

CONDITIONS OF HOMESTEAD LEASE.

The lessee or his successors must maintain his home on the leased premises, must pay the taxes assessed upon the premises within sixty days after the same are delinquent, and perform any conditions of the lease relating to protection or planting of trees or destruction and prevention of vegetable pests.

Lands held under a certificate of occupation or homestead lease are liable to taxation as estates in fee.

In case of the death of an occupier or lessee, his interests, notwithstanding any devise or bequest, shall vest in his relations in the order prescribed in the act, the widow or widower being first in order, then the children, etc.

Certificates of occupation or homestead lease, or any interest thereunder, is not assignable by way of mortgage, nor is the same subject to attachment, levy, or sale on any process issuing from the courts of the

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country. Neither the whole nor any portion of the premises may be sublet.

Surrender may be made to the government by an occupier or lessee having the whole interest if all conditions to date of surrender have been fulfilled, and the person so surrendering is entitled to receive from the government the value of permanent improvement whenever the same is received by the government from a new tenant.

RIGHT OF PURCHASE LEASES.

Right of purchase leases, for the term of twenty-one years, may be issued to qualified applicants, with the privilege to the lessee of purchasing at the end of three years and upon fulfillment of special conditions.

QUALIFICATIONS OF APPLICANTS.

Any person who is over 18 years of age, who is a citizen by birth or naturalization of the Republic of Hawaii, or who has received letters of denization of special rights of citizenship, who is under no civil disability for any offense, who is not delinquent in the payment of taxes, and who does not own any agricultural or pastoral land in the Hawaiian Islands, may apply for right of purchase lease, the limit of areas which may be acquired being 100 acres first-class agricultural land; 200 acres second-class agricultural land; 2 acres wet (rice or taro) land; 600 acres first-class pastoral land; 1,200 acres second-class pastoral land; 400 acres mixed agricultural and pastoral land.

Any qualified person, owning less than the respective amounts stated in foregoing list, and which is not subject to residence condition, may acquire additional land of the classes already held by him, but so that his aggregate holding shall not be in excess of the limit named; or if desiring additional land of another class, may acquire the same according to ratio established between the various classes.

Husband and wife may not both be applicants for right-of-purchase leases.

Application must be made in person at the office of subagent of the district, and must be accompanied by a fee equal to six months' rent of premises, fee to be credited on account of rent if application is successful, and to be returned if application is unsuccessful. In case of more than one application for same lot, the first application takes precedence.

CONDITIONS OF RIGHT-OF-PURCHASE LEASE.

Term, twenty-one years. Rental, 8 per cent on the appraised value given in lease, payable semiannually.

The lessee must from the end of the first to the end of the fifth year continuously maintain his home on the leased premises.

The lessee must have in cultivation at the end of three years 5 per cent and at the end of five years 10 per cent of his holding, and maintain on agricultural land an average of ten trees to the acre.

Pastoral land must be fenced.

Interest in right-of-purchase lease is not assignable without written consent of the commissioners of public lands, but the lease may be surrendered to the government.

In case of forfeiture or surrender of right-of-purchase lease, reappraisement is made of the land and of permanent improvements

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thereon, and if the land is again disposed of, the incoming tenant shall pay for such permanent improvements, and the amount when so received by the government shall be paid to the surrendering lessee.

CONDITIONS UNDER WHICH PURCHASE MAY BE MADE.

At any time after third year of leasehold term the lessee is entitled to a land patent giving fee-simple title, upon his payment of the appraised value set forth in lease, if he has reduced to cultivation 25 per cent of his leased premises, and has substantially performed all other conditions of his lease.

CASH FREEHOLDS.

Cash freehold lots are sold at auction to the highest qualified bidder, at appraised value as upset price.

The qualification of applicants for cash freeholds and the areas of land which may be acquired are the same as those under right of purchase-lease system.

APPLICATIONS.

Applications must be made to subagent of district in writing, with sworn declaration as to qualifications, and a fee of 10 per cent of appraised value of lot, which fee is forfeited if applicant declines to take the premises at the appraised value, and is credited to him if he becomes the purchaser of the lot. If such applicant, however, is outbid, his fee is returned to him.

If two or more applications are made and there is no bid above the upset price, the first application takes precedence.

The purchaser at auction sale must pay immediately thereafter one-fourth of purchase price and thereupon receive a freehold agreement.

CONDITIONS OF FREEHOLD AGREEMENT.

The freeholder shall pay the balance of purchase price in equal installments in one, two, and three years, with interest at 6 per cent, but may pay any installment before it is due and stop corresponding interest.

Twenty-five per cent of agricultural land must be cultivated, and pastoral land fenced, before the end of third year.

Freeholder must maintain his home on the premises from end of first to end of third year.

He may not assign or sublet without consent of agent of public lands.

He must allow agents of the government to enter and examine the premises.

He must pay all taxes that may be due upon the premises.

If all conditions are fulfilled he is entitled at end of three years to patent giving fee simple title.

In case of forfeiture or surrender the land and permanent improvements are reappraised separately, and the value of such improvements when received by government from new tenant or freeholder will be paid to surrendering freeholder.

SETTLEMENT ASSOCIATIONS.

Six or more qualified persons may form a "settlement association" and apply for holdings in one block.

The provisions for cash freehold apply to the settlement of such

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blocks, but first auction sale is confined to members of such settlement association.

Any lot in such block which may be forfeited or surrendered, or which is not taken up by any member of the settlement association within three months, shall be open to any qualified applicants.

Disputes, disagreements, or misunderstandings between the parties to certificate of occupation, homestead lease, right-of-purchase lease, or cash freehold and relating thereto, which can not be amicably settled, shall be submitted to the circuit judge in whose jurisdiction the premises are situated, and his decision shall be final subject only to appeal to supreme court.

CASH SALES BY SPECIAL AGREEMENTS.

With consent of executive council, public lands not under lease may be sold in parcels of not over 1,000 acres at public auction for cash, and upon such sale and payment of full consideration a land patent will issue.

Parcels of land of not over 600 acres may, with consent of executive council, be sold at public auction upon part credit and part cash, and upon such terms and conditions of improvement, residence, etc., as may be imposed.

Upon fulfillment of all conditions a land patent will issue.

GENERAL LEASES.

General leases of public lands may be made for a term not exceeding twenty-one years.

Such leases are sold at public auction, and require rent in advance quarterly, semiannually, or annually.

The conditions of general leases are made at discretion of the commissioners, and may be made for any class of public lands.

The homestead-lease method was intended to provide the native with a home for himself and family, and the conditions which appear rather harsh were intended in reality to protect himself and his successors in the enjoyment of the same. The careless, happy-go-lucky way of the aborigines, and the ease and small consideration with which they could be separated from their property, rendered some provision of this kind necessary. That it has not been taken advantage of reflects more on the native character than the wisdom of the lawmakers. The comparative unpopularity of the homestead lease is shown in the following table:

Schedule of lands taken up under the general systems of the "land act, 1895," to August 12, as furnished by Mr. J. F. Brown, agent of public lands.

	Number.	Acres.	Value.
Right of purchase leases	324	16,114	$105,192
Cash freeholds	19	716	3,948
Special agreements	96	6,197	44,653
Homestead leases	67	936	.....

PROCEEDS OF THE SALES OF LANDS.

By section 202, Civil Laws (reenacting earlier provisions), all proceeds of sales of public lands are pledged as a special fund for the payment of bonded indebtedness.

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THE CROWN LANDS.

In 1894 the crown lands formerly belonging to the monarch were taken over by the government. They amounted on May 1, 1894, to 971,463 acres, valued at $2,314,250, distributed among the islands as follows:

	Acres.	Value.
Hawaii	642,852	$992,300
Maui	69,121	180,500
Molokai	20,892	25,000
Lanai	17,369	17,000
Oahu	66,593	518,450
Kauai	154,636	581,000
Total	971,463	2,314,250

This land is nearly all occupied by tenants under long leases, and for the year ending March 31, 1894, the rentals received were $49,268.75. Many leases of large tracts are said to have been let at inadequate rentals by special favor. The leases existing when the lands were taken over by the Republic have been recognized and the rentals treated as government income. As leases expire the lands become available for settlement, sale, and lease, under the public-land system. (See Table No. 2 for a list of expiration of these crown leases.)

Public lands, exclusive of building lots in Honolulu and Hilo and of esplanade and city front in Honolulu, as of date September 30, 1897, aggregate 1,762,330 acres and an estimated value of $4,147,700.

The details of this summary are as follows:

Island.	Coffee.	Cane.	Rice.	Grazing.	Forest, etc.	Estimated value.
	Acres.	*Acres.*	*Acres.*	*Acres.*	*Acres.*	
Hawaii	62,890	18,156	140	368,849	749,302	$1,874,900
Maui	8,180	520	110	112,570	58,550	453,800
Oahu	800	2,050	327	71,414	13,778	983,500
Kauai	4,400	4,900	400	80,050	86,650	648,000
Molokai	.....	.....	.....	40,625	.....	77,500
Lanai and Kahoolawe	.....	.....	.....	77,669	.....	70,000
Laysan, etc., islands (guano islands)	.....	.....	.....	.....	.....	40,000
	76,270	25,626	977	751,177	908,280	4,147,700

Building lots, Honolulu	$521,800
Building lots, town Hilo	160,000
Esplanade and city front:	
Leased lots (including esplanade storage); rent, $27,000 per annum	450,000
Old lots unleased, including fish market, custom-house site, etc	250,000
Old lots (reclaimed land)	100,000
	1,481,800
Total estimated value of coffee, cane, rice, grazing, forest and other lands	4,147,700
Total value	5,629,500

The total area of the Government lands may be roughly classified as follows:

	Acres.
Valuable building lots	145
Cane lands	25,626
Rice lands	977
Coffee lands	76,270
Homesteads, Government interest in	20,000

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	Acres.
Grazing lands of various quality	451,200
Forest lands (high)	681,282
Rugged, inaccessible mountain tracts	227,000
Barren lands, nominal value	300,000
Total	1,782,500

NOTE.—Since the date of September 30, to which the foregoing summary applies, and up to the date of August 12, 1898, patent grants conveying fee simple titles have been issued for 9,860 acres, in round numbers valued at $48,500—almost wholly of agricultural land on the island of Hawaii. The totals of the above summary would therefore stand corrected as follows:

	Acres.
Total area	1,772,640
Total value	51,581,000

Increase in values, however, has been such that the above might be considered a conservative estimate.

CROWN LANDS.

The printed report of the agent of Crown lands for 1894 gives a full statement of those lands as of that date. After the passage of the land act of 1895 those lands came under the control of the commissioners of public lands, and are included in the foregoing summary.

Since the date of the "land act of 1895," from such "Crown lands" patents giving fee simple titles have been granted for an area in round numbers of 9,960 acres, at a valuation of $36,400.

The above classification of Government lands is necessarily somewhat arbitrary, and the statement in my report of 1894 to the surveyor-general applies also at this date, "that the lack of positive knowledge of quality and adaptability of the soil in untried sections, and the imperceptible gradation by which the best lands merge into indifferent, and indifferent into that of nominal value, makes a report of this nature to a considerable extent a matter of personal opinion rather than of scientific certainty."

I would further state that under the head of grazing lands and high forest land is included a large area which in the future may be devoted to a class of temperate climate products, grain, fruits, etc., which area is now practically undeveloped.

The estimate of values of Government lands has been made independently of the leases and rents received from same. In the case of recent leases these rents are fairly representative of the value of the land, but in many of the older leases are much below the present standard of value.

Further data as to receipts, revenue from rents, etc., will be found in the report of the commissioners of public lands referred to.

J. T. BROWN,
Agent of Public Lands.

AUGUST 29, 1898.

TABLE NO. II.—*Showing the yearly expiration, in acres, of leased government and crown lands.*

GOVERNMENT LAND.

Year.	Hawaii.	Maui.	Molokai, Lanai, and Kahoolawe.	Oahu.	Kauai.	Total.
	Acres.	*Acres.*	*Acres.*	*Acres.*	*Acres.*	*Acres.*
1898	759	156	.....	10	.....	925
1899	207	3,900	.....	.....	.....	4,107
1900	.....	5,834	.....	5	.....	5,839
1901	39,845	37,190	.....	32	.....	77,067

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TABLE NO. II.—*Showing the yearly expiration, in acres, of leased government and crown lands*—Continued.

GOVERNMENT LAND—Continued.

Year.	Hawaii.	Maui.	Molokai, Lanai, and Kahoolawe.	Oahu.	Kauai.	Total.
	Acres.	*Acres.*	*Acres.*	*Acres.*	*Acres.*	*Acres.*
1902	831	2,201				3,032
1903	13,616			50		13,666
1904	8,567			97		8,664
1905	3,208	4,549				7,757
1906	220,703			18		220,721
1907	18,604		15,406	30	2,405	36,445
1908	3,290	1,250	8,996	35		13,571
1909					1,151	1,151
1910				5,544		5,544
1911				742		742
1912	4,345			160	2,000	6,505
1913	1,360	2,100	30,000		13,400	46,860
1915		1,500				1,500
1917	45	7,515				7,560
1918	3,835					3,835
1919	12,800	1,525		915		15,240
1920	489					489
Total	332,504	67,720	54,402	7,638	18,956	481,220

NOTE.—On Hawaii 233,127 acres now under lease can be canceled at option of the Government, as also 10,150 acres on Maui; 4,956 acres on Molokai, for which no expiration is given, is now under No leases expired in 1914 and 1916.

CROWN LAND.

Year.	Hawaii.	Maui.	Molokai and Lanai.	Oahu.	Kauai.	Total.
	Acres.	*Acres.*	*Acres.*	*Acres.*	*Acres.*	*Acres.*
1900		370		1		371
1901	3			15,505		15,508
1902	9,420			6,843		16,263
1903	7,343			55		7,398
1904		600		4,008	17,284	21,982
1906					6,354	6,354
1907	172,780	11,040				183,820
1908	102,015	9,477				111,492
1909				6,154	4,045	10,199
1911	18	17,066	23	540		17,647
1912	5,038	3,200		20,322		28,560
1913	62,200	3,316		2,542		68,058
1914	15,210					15,210
1916			17,369			17,369
1917					117,917	117,917
1918	135,000		20,183	26	7,237	162,446
1919	744					744
1920				6,970		6,870
1921	57,236				2,800	60,036
Total	567,007	45,069	37,575	62,966	155,637	868,254

NOTE.—No leases expire in 1898, 1899, 1905, 1910, or 1915.

The committee is of the opinion that it is not wise to make any specific recommendation touching the policy hereafter to be pursued with reference to the laws which shall govern the disposition of the lands of the Territory of Hawaii until further investigations shall be made, and therefore recommends that the laws relating to lands, agriculture, and forestry shall continue in force until the Secretary of Agriculture shall have opportunity to make a more thorough investigation of the conditions of such lands in the Territory, to examine the laws now there in force relating to lands, forestry, and agriculture, including also public roads, and report the result of such investigation to Congress for its guidance.

S. M. CULLOM.
JNO. T. MORGAN.
SANFORD B. DOLE.

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REPORT OF COMMITTEE ON LOCAL EXECUTIVE OFFICES.

Hon. SHELBY M. CULLOM,
Chairman of the Hawaiian Commission:

The committee on local executive offices respectfully submits the accompanying report.

S. B. DOLE,
W. F. FREAR,
Committee on Local Executive Offices.

HONOLULU, *September 12, 1898.*

The local officers authorized by law in the Republic of Hawaii were the following:

Officer.	Appointed by—	Confirmed by—	Tenure of office.	Salary per annum.
Executive council.				
President	Legislature		6 years	$12,000
Cabinet:				
Minister of foreign affairs	President	Senate	Indefinite	6,000
Minister of the interior	do	do	do	6,000
Minister of finance	do	do	do	6,000
Attorney-general	do	do	do	6,000
Department of foreign affairs.				
Minister of foreign affairs				
Secretary	Minister	President	Indefinite	2,400
Clerk	Secretary	Minister	do	1,200
Do	do	do	do	1,000
Clerk, executive council	President		do	1,500
Department of the interior.				
Minister of the interior				
Chief clerk	Minister	President	Indefinite	2,700
First assistant clerk	do		do	2,400
Second assistant clerk	do		do	1,800
Third assistant clerk	do		do	1,500
Fourth assistant clerk and copyist.	do		do	1,200
Two messengers, each	do		do	600
Clerk of land records and copying patents.	do		do	900
Electoral registrar	do		do	600
Veterinary surgeon	do		do	600
Commission of public lands.				
Land agent	Minister	President	Indefinite	3,000
Secretary and subagent fifth land district.	Land agent	Minister	do	2,100
Clerk	do	do	do	1,200
Assistant clerk	do	do	do	600
Subagent first district	do	do	do	1,500
Clerk first district	do	do	do	600
Subagent second district	do	do	do	600
Subagent third district	do	do	do	480
Subagent fourth district	do	do	do	600
Subagent, sixth district	do	do	do	360
Ranger, first district	do	do	do	600
Ranger, second district	do	do	do	360
Ranger, third district	do	do	do	360

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Officer.	Appointed by—	Confirmed by—	Tenure of office.	Salary per annum.
Commission of public lands— Continued.				
Ranger, fourth district	Land agent	Minister	Indefinite	$360
Ranger, fifth district	do	do	do	360
Ranger, sixth district	do	do	do	360
Bureau of survey.				
Surveyor-general	Minister	President	Indefinite	3,000
Chief assistant	Surveyor-general.	Minister	do	2,700
First assistant	do	do	do	2,400
Second assistant	do	do	do	2,100
Third assistant	do	do	do	1,350
Draftsman	do	do	do	1,050
Aid	do	do	do	600
Messenger	do	do	do	480
Registry of conveyances.				
Registrar	Minister	President	Indefinite	2,700
Deputy registrar and copyist	Registrar	Minister	do	1,500
Copyist	do	do	do	900
Do	do	do	do	800
Do	do	do	do	600
Do	do	do	do	600
Do	do	do	do	480
Bureau of immigration.				
Inspector	Minister		Indefinite	2,400
Secretary	do		do	1,500
Bureau of waterworks.				
Superintendent of Honolulu waterworks and clerk of market.	Minister	President	Indefinite	2,700
Clerk	Superintendent	Minister	do	1,800
Assistant clerk	do	do	do	600
Reservoir keepers (3)	do	do	do	1,320
Plumber and assistant	do	do	do	1,320
Tap inspector	do	do	do	1,042
Shipping tenders	do	do	do	600
Market keeper	do	do	do	360
Assistant keeper	do	do	do	300
Superintendent Hilo waterworks.	do	do	do	900
Superintendent Laupahoehoe waterworks.	do	do	do	20
Superintendent Koloa waterworks.	do	do	do	25
Engineers (2)	do	do	do	3,000
Bureau of public works.				
Superintendent	Minister	President	Indefinite	3,000
Road engineer	Superintendent	Minister	do	2,400
Bookkeeper	do	do	do	1,800
Draftsman and assistant superintendent.	do	do	do	1,500
Clerk	do	do	do	900
Harbor master	do	do	do	3,000
Road supervisor, Honolulu	do	do	do	2,400
Roads and bridges, Honolulu, pay roll.	do	do	do	13,332
Steam tug, pay roll	do	do	do	6,600
Electric-light inspector	do	do	do	1,800
Dynamoman	do	do	do	960
Do	do	do	do	780
Lineman	do	do	do	780
Station keeper	do	do	do	720
Trimmer	do	do	do	720
Do	do	do	do	720
Light-house keepers	do	do	do	4,460
Keeper of wharf and buoys, Lahaina.	do	do	do	120
Gunpowder keeper, Hilo	do	do	do	25
Board of health.				
Secretary	Minister		Indefinite	2,000
Government physicians	Board of health		do	18,000
General expenses, pay roll			do	9,430

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Officer.	Appointed by—	Confirmed by—	Tenure of office.	Salary per annum.
Board of health—Continued.				
Nonleprous children, pay roll			Indefinite	$1,200
Removing garbage, pay roll			do	5,400
Keeper quarantine station			do	600
Maintenance of hospitals, pay roll.			do	6,500
Act to mitigate pay roll			do	1,575
Segregation of lepers, pay roll			do	19,200
Superintendent insane asylum			do	1,800
Assistants, insane asylum			do	11,832
Food commissioner			do	2,100
Forests and nurseries bureau.				
Commissioner	Minister	President	Indefinite	2,100
Entomologist	Commissioner	Minister	do	2,000
Gardener, nursery	do	do	do	1,020
Forester	do	do	do	1,020
Laborers, Makiki and Nuuanu	do	do	do	2,700
Laborers, nurseries	do	do	do	540
Chief forester	do	do	do	2,400
Expert forester	do	do	do	750
Public grounds bureau.				
Pay roll, Government building	Minister		Indefinite	2,472
Pay roll, Makiki and River parks.	do		do	1,020
Pay roll, Thomas and Emma squares.	do		do	1,020
Keeper mausoleum and grounds.	do		do	390
Janitor and keeper, executive and judiciary building.	do		do	1,200
Fire departments.				
Honolulu fire department, pay roll.			Indefinite	29,520
Steward, watchman, and engineer, Hilo fire department.			do	540
Department of finance.				
Minister of finance				
Registrar of public accounts	Minister	President	Indefinite	2,700
Clerk, finance office	Registrar	Minister	do	1,800
Second clerk and messenger	do	do	do	600
Tax bureau.				
Tax assessor, Oahu	Minister	President	Indefinite	2,700
Tax assessor, Hawaii	do	do	do	2,500
Tax assessor, Maui	do	do	do	2,300
Tax assessor, Kauai	do	do	do	2,000
Deputy tax assessors and collectors, salaries and commissions.	Tax assessors	Minister	do	3,000
Postal bureau.				
Postmaster-general	Minister	President	Indefinite	3,000
Deputy postmaster-general and secretary.	Postmaster-general.	Minister	do	2,000
Superintendent postal savings bank.	do	do	do	2,000
Superintendent money-order division.	do	do	do	2,000
General delivery clerk	do	do	do	1,800
Registry delivery clerk	do	do	do	1,500
Parcel-post clerk	do	do	do	1,200
Mail dispatcher	do	do	do	1,200
Postal savings bank clerk	do	do	do	1,200
Money-order clerk	do	do	do	1,200
Do	do	do	do	900
General delivery clerk	do	do	do	900
Portuguese delivery clerk	do	do	do	840
Japanese delivery clerk	do	do	do	840
Chinese delivery clerk	do	do	do	840
Clerk	do	do	do	600
Do	do	do	do	600
Do	do	do	do	600
Do	do	do	do	600
Ladies' window clerk	do	do	do	540

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Officer.	Appointed by—	Confirmed by—	Tenure of office.	Salary per annum.
Postal bureau—Continued.				
Clerk	Postmaster-general.	Minister	Indefinite	$540
Do	do	do	do	480
Do	do	do	do	240
Assistant clerk, postal savings bank	do	do	do	480
Clerk, postal savings bank	do	do	do	360
Janitor	do	do	do	240
Bureau of customs.				
Collector-general	Minister	President	Indefinite	3,000
Deputy collector, Honolulu	Collector-general	Minister	do	2,700
Entry clerks (3)	do	do	do	3,900
Statistical clerks (3)	do	do	do	4,200
Port surveyor, Honolulu	do	do	do	2,000
Storekeeper	do	do	do	1,200
Appraiser	do	do	do	2,100
Assistant appraiser	do	do	do	1,500
Customs gauger and tester	do	do	do	1,500
Examiners (2)	do	do	do	2,400
Appraiser's storekeeper	do	do	do	1,200
Chinese and Japanese invoice inspectors	do	do	do	1,200
Pilots, Honolulu (3), each	do	do	do	2,400
Assistants, customs warehouses	do	do	do	3,600
Customs inspectors, Honolulu	do	do	do	10,000
Customs guards, Honolulu	do	do	do	13,750
Pilot's watchman, Diamond Head	do	do	do	900
Pilot's watchman, pilot's office	do	do	do	720
Pilots' boats, pay roll	do	do	do	2,500
Assistant guards, all ports	do	do	do	4,000
Collector, Kahului	do	do	do	1,500
Port surveyor, Kahului	do	do	do	1,000
Customs guards and inspectors, Maui	do	do	do	2,160
Collector, Hilo	do	do	do	1,500
Port surveyor, Hilo	do	do	do	1,000
Customs guards and inspectors, Hawaii	do	do	do	2,160
Collector, Mahukona and Honoipu	do	do	do	900
Collector, Waimea and Koloa	do	do	do	200
Collector, Kailua and Kealakekua	do	do	do	200

Department of the attorney-general.

Attorney-general				
Deputy attorney-general	Attorney-general.		Indefinite	$3,000
Assistant to attorney-general	do		do	1,800
Clerk to department	do		do	1,800
Marshal	do	President	do	3,000
Clerk to marshal	Marshal	Attorney-general.	do	1,800
Deputy marshal	do	do	do	2,100
Jailor, Oahu prison	do	do	do	1,800
Sheriff of Hawaii	do	do	do	2,500
Sheriff of Maui	do	do	do	2,750
Sheriff of Kauai	do	do	do	2,000
Sheriff's clerk, Hawaii	do	do	do	900
Sheriff's clerk, Maui	do	do	do	900
Sheriff's clerk, Kauai	do	do	do	400
Deputy sheriff, Hawaii	do	do	do	1,800
Deputy sheriff, North Kohala	do	do	do	1,200
Deputy sheriff, South Kohala	do	do	do	600
Deputy sheriff, Hamakua	do	do	do	1,200
Deputy sheriff, North Hilo	do	do	do	720
Deputy sheriff, North Kona	do	do	do	1,200
Deputy sheriff, South Kona	do	do	do	900
Deputy sheriff, Kau	do	do	do	1,020
Deputy sheriff, Puna	do	do	do	720
Police, Hawaii	do	do	do	27,500
Deputy sheriff, Maui	do	do	do	1,500
Deputy sheriff, Makawao	do	do	do	1,200
Deputy sheriff, Lahaina	do	do	do	960
Deputy sheriff, Hana	do	do	do	960

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Officer.	Appointed by—	Confirmed by—	Tenure of office.	Salary per annum.
Deputy sheriff, Molokai	Marshal	Attorney-general.	Indefinite	$800
Police, Maui	do	do	do	15,000
Deputy sheriff, Kauai	do	do	do	1,500
Deputy sheriff, Kawaihau	do	do	do	780
Deputy sheriff, Hanalei	do	do	do	780
Deputy sheriff, Koloa	do	do	do	780
Deputy sheriff, Waimea	do	do	do	1,200
Police, Kauai	do	do	do	9,000
Deputy sheriff, Koolaupoko	do	do	do	600
Deputy sheriff, Koolauloa	do	do	do	600
Deputy sheriff, Waialua	do	do	do	600
Deputy sheriff, Waianae	do	do	do	600
Deputy sheriff, Ewa	do	do	do	900
Police, Oahu	do	do	do	67,500
Clerks, receiving station (2)	do	do	do	1,440
Supreme court officer	do	do	do	1,080
Hack inspector	do	do	do	1,200
Physicians' receiving station and prison.	do	do	do	1,200
Jailors, guards, and lunas of prisoners.	do	do	do	27,500
Keeper kerosene warehouse	do	do	do	900
Keeper powder magazine	do	do	do	600
Stenographer to department	Attorney-general.	do	do	1,500
Audit department.				
Auditor-general	President	Senate	do	3,600
Deputy auditor-general	do	Cabinet	do	2,400
Clerks (eighteen months)	Auditor-general		do	5,500
Department of public instruction.				
Inspector-general of schools	Minister and commissioner of public instruction.		do	3,000
Deputy inspector and school agent, Honolulu.	do		do	450
Traveling normal instructor	do		do	3,000
Secretary of department	do		do	1,800
Assistant secretary and school agent, Honolulu.	do		do	1,500
Messenger and book clerk	do		do	900
Public schools pay roll	do		do	225,000
School agents	do		do	2,250
Superintendent industrial School.	do		do	1,200
Matron of industrial school	do		do	900
Guards industrial school	do		do	900

In addition to the foregoing salaried officers are the following boards and commissions, the members of which serve without pay:

Board of immigration.—Comprising the minister of the interior, ex officio, chairman, and 5 commissioners appointed by the President, with the approval of the cabinet; term of office, indefinite.

Board of health.—Comprising the attorney-general, ex officio, and 6 members, 3 of whom are laymen and 3 physicians, appointed by the President, with the approval of the cabinet; term of office, two years.

Commissioners of public instruction.—Comprising the minister of foreign affairs, ex officio, minister of public instruction, and 6 commissioners, appointed by the President, with the approval of the cabinet; term of office, three years.

Board of prison inspectors.—Comprising 3 inspectors, appointed by the minister of the interior, with the approval of the cabinet; term of office, two years.

Board of equalization.—Comprising the minister of finance and the several assessors.

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Board of inspectors of elections.—Comprising 3 inspectors of election for each precinct, appointed by the minister of the interior; term of office, indefinite.

Board of registration.—Comprising 3 members in 5 districts, appointed by the President, with the approval of the senate.

Council of state.—Comprising 15 members, 5 elected by senate, 5 elected by house of representatives, and 5 appointed by President with approval of cabinet. Members of executive council sit and take part in meetings, but can not vote.

Labor commission.—Comprising 3 members, appointed by the President; term of office, indefinite.

Road board.—Comprising 3 members in each district, appointed by the minister of the interior; term of office, indefinite.

Pound masters.—Consisting of 1 in each district, appointed by the minister of interior; term of office, indefinite; a system of fees charged.

Commissioners of public lands.—Composed of a board of 3 commissioners, including the minister of the interior and 2 persons appointed by the President, with the approval of the cabinet, 1 of whom is designated agent of public lands; term of office, indefinite.

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REPORT OF COMMITTEE ON CLAIMS.

HONOLULU, H. I., *September 12, 1898.*

Hon. SHELBY M. CULLOM,
Chairman of the Hawaiian Commission.

SIR: Your committee on claims respectfully submit the following report:

1. Claims for damages have been presented against the Republic of Hawaii, on behalf of persons arrested and confined for complicity in the insurrection of 1895, as follows:

British subjects:	
Charles Dunwell (paid)	£650
E. B. Thomas	500
C. W. Ashford	1,400
F. H. Redward	600
W. F. Reynolds	700
Thomas Rawlins	400
G. C. Kenyon	900
L. J. Levy (since deceased)	900
M. S. Bailey	200
F. Harrison	800
Total	7,050
Danish subject: Edmund Norrie	No sum mentioned.
Portuguese subject: Manoel dos Reis	No sum mentioned.
Greek subjects:	
P. G. Camarinos (since deceased)	No sum mentioned.
George Lycurgus	No sum mentioned.
American citizen: James Durrell	$25,000

Mr. A. G. S. Hawes, lately Her Britannic Majesty's commissioner and consul-general, expressed the opinion that the claims of the British subjects might be compromised for one-half the amounts claimed. The government of Hawaii denies the validity of each of the above claims, and has refused payment thereof, excepting in the case of Charles Dunwell, whose case differed from that of the others in that he was confined in order to compel him to testify. This claim has been paid. The British Government has now suggested arbitration as to the other claims of British subjects, and the correspondence in regard thereto has been turned over to Mr. H. M. Sewall, special agent of the United States under the State Department, the functions of the Hawaiian foreign office in this respect having ceased.

Another claim growing out of the same insurrection is that of H. A. Juen, who claims to be an American citizen. This claim was presented to this commission, with a request that it be referred to the State Department, after an unsuccessful presentation thereof, made previously at the State Department at Washington by the claimant.

2. *Japanese claims.*—The principal claim presented against the Hawaiian government, namely, that which grew out of the refusal of the Hawaiian government, in 1897, to allow certain Japanese immigrants to land in Hawaii, on the ground that they did not possess the necessary qualifications, was settled, after the approval of the joint

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resolution of annexation and before the formal transfer of the sovereignty of Hawaii to the United States, by the payment of $75,000 by the Hawaiian government. This payment was made as a matter of policy, in view of special circumstances, and not because the claim was conceded to be well founded.

Another claim made by the Japanese Government arose in consequence of an act passed by the Hawaiian legislature in 1896, which raised the duty on spirituous liquors and still wines, made from materials other than grape juice, the rates varying according to the degree of alcoholic strength. The practical effect of this was to raise the duty on sake, a product of Japan, from 18 cents to $1 per gallon. It was claimed that this amounted to a discrimination, in violation of the treaty between Hawaii and Japan. The Hawaiian government denied that there was any such discrimination. The correspondence finally closed with a request from Japan that endeavors be made to obtain the repeal of the objectionable act. The act in question was amended, to some extent, in 1898, and will become void when the United States tariff laws take effect in Hawaii.

3. *Claim by the Hawaiian government.*—In April, 1897, the Japanese steamship *Kinai Maru* arrived at Honolulu with a large number of immigrants, among whom smallpox broke out. Great expense was incurred in maintaining quarantine. Nearly all the passengers were refused landing for noncompliance with the laws relating to the landing of aliens and had to be returned. The master could not obtain responsible sureties on a bond for the payment of expenses, and finally, owing to the peculiar circumstances, a bond in the nature of a bottomry bond was taken and the vessel allowed to depart. The Hawaiian government claims $6,018 on this bond, which has not yet been paid.

4. There are various claims by and against the Hawaiian government other than those connected with or presented through the foreign office. These are ordinary claims, which are or might become the subjects of ordinary actions of ejectment, assumpsit, etc., and which may be prosecuted in the courts under statutes now in force. The Hawaiian statute relating to suits against the Government was taken substantially from that of the United States relating to the Court of Claims. The prosecution of these claims should be allowed to continue by or against the government of the Territory of Hawaii.

5. *Claim of the heirs of Ladd & Co.*—This is a claim of nearly sixty years' standing. It was originally made by W. Hooper, W. Ladd, and P. A. Brinsmade, American citizens, doing business under the firm name of Ladd & Co., and is now made by the heirs of those men. It is claimed that Ladd & Co. obtained in 1835 a lease of certain lands at Koloa, on the island of Kauai, for fifty years, and in 1841 a lease of nearly all the cultivable unoccupied lands of the islands for one hundred years upon certain conditions, the lands to be selected by Ladd & Co.; that these leases were assigned to a Belgian colonization company; that the Hawaiian government, desiring to avoid the leases, attempted to ruin Ladd & Co. by foreclosing a mortgage and by other similar means, the consequence of which, as alleged, was to destroy their credit and thus lead the Belgian company to withdraw from its contract; that Ladd & Co. brought suits against the Hawaiian government, but afterwards abandoned them; that later the claim was submitted to arbitration, from which Ladd & Co. afterwards withdrew, owing, as alleged, to lack of funds as a result of the action of

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the Hawaiian government in prolonging the proceedings; that Ladd & Co. afterwards presented the claim at the State Department in Washington, but finally determined not to press it at that time; that they afterwards died, and now their heirs present the claim. The Hawaiian government has always denied the validity of this claim. The claim is now presented by the heirs to this commission, with a request that it be considered and provided for in the report to Washington. No action has been taken in regard thereto in connection with the foreign office of Hawaii for many years.

Respectfully submitted.

W. F. FREAR.
R. R. HITT.

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REPORT OF COMMITTEE ON HEALTH AND QUARANTINE.

HONOLULU, HAWAIIAN ISLANDS, *September 9, 1898.*

Hon. SHELBY M. CULLOM,
Chairman of the Hawaiian Commission.

SIR: The committee on health and quarantine respectfully submit the following report:

Health and quarantine matters in the Hawaiian Islands are under the general charge of a board of a health. This board consists of seven members, namely, three laymen, three physicians, and the attorney-general ex officio. The members are appointed by the President with the approval of the cabinet, and serve without pay. Their term of office is two years. They elect their own presiding officers. They also appoint their secretary, whose salary is provided by law, and their executive officer, agents, and physicians, whose salaries are determined by the board and paid out of appropriations made by the legislature. They also make regulations for the public health in pursuance of law.

There are no municipal corporations in these islands. The islands are divided by statute into districts for judicial, educational, and taxation purposes. Each of the principal islands has a circuit judge and a sheriff, each district in the island a deputy sheriff and district magistrate. Each sheriff and deputy sheriff is a prosecuting officer; also a coroner. The board of health has adopted the judicial districts as health districts, and in many of these districts has a physician and agent. The sheriffs and deputy sheriffs are required to assist in the enforcement of health laws and regulations. The attorney-general, who has charge of the police department, is, as already stated, ex officio a member of the board of health.

Thus, it will be seen, all internal health matters in the islands are under one board, the health and police departments work together in harmony, and expense is saved by having but one set of officers to a large extent. Quarantine matters also are under the charge of the same board, and thus all conflict, such as has existed to some extent between the Federal and State health and quarantine officers in the United States, has been avoided. The result has been that health and quarantine matters have been conducted with remarkable success and satisfaction in these islands.

The nature, extent, and expense of the work conducted under the board of health may be briefly set forth as follows:

QUARANTINE.

Rules and regulations have been prepared and published by the minister of foreign affairs in pursuance of statute, to be observed by vessels at the port of departure from other countries for Hawaii, and on the voyage. These are substantially the same as those prepared by the United States Marine-Hospital Service and adopted by the United States Government. The ports from which there is serious

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danger of introduction of epidemic diseases into these islands are those of China and Japan, and the diseases of this character that may be introduced from those ports are chiefly smallpox, cholera, and the bubonic plague. The United States has thus far established ante-embarkation inspection and quarantine at Yokohama only. Hawaii has established these at Yokohama, Kobe, Nagasaki, and Hongkong. At Hongkong the Pacific Mail Steamship Company, at the instance of the Hawaiian Government, has erected a modern disinfecting plant. Immigrants embarking for Hawaii at Hongkong are subjected to thorough inspection and, when necessary, to quarantine and disinfection. But on the same vessels there embark others for the United States in regard to whom such precautions have not been taken, thus subjecting those destined for Hawaii to further possible exposure. It is obvious that all this work should now come under one control, namely, that of the Federal Government; but that Government would no doubt find it most economical and expedient to conduct this work at Hawaiian ports through the local board. The advantage to the United States of these islands as an outpost or way station in health matters, nine or ten days by steam from Japan and a much longer time from China, and nearly a week from San Francisco, can scarcely be overestimated. This advantage would be greatly augmented if there were a cable from these islands to the United States.

At Honolulu the board of health has a commodious quarantine station with a modern disinfecting plant on an island near the harbor. Vessels bringing sick persons are required to pay the expense caused thereby to the board. So efficient has been the Hawaiian quarantine service that bubonic plague has never, cholera but once, and smallpox only a few times, got a foothold on these islands.

LEPROSY.

This subject occupies a place intermediate between quarantine and purely local health matters. There is little danger of its introduction from abroad, and yet it is a contagious disease which deeply concerns the islands as a whole and the United States as well. It is the largest subject with which the board of health deals.

A system of segregation has been enforced since 1865. A tract of land 2 or 3 miles across, on the island of Molokai, peculiarly adapted for the purpose by reason of its complete isolation, being inclosed on one side by a lofty precipice and on the other sides by the ocean, is set apart exclusively for the leper settlement. The following table shows the number of lepers at the settlement at the end of each year of its history, also the number of admissions and deaths or discharges for each year:

Year.	Admissions.	Deaths.	Discharged or unaccounted for.	Number on the books Dec. 31.
1866	141	26	10	105
1867	70	25	7	143
1868	115	28	2	228
1869	126	59	11	284
1870	57	58	4	279
1871	183	51	9	402
1872	105	64	4	439
1873	487	156	21	749
1874	91	161	8	671
1875	212	163	14	706
1876	96	122	3	677
1877	163	129	1	710

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Year.	Admissions.	Deaths.	Discharged or unaccounted for.	Number on the books Dec. 31.
1878	239	147		802
1879	125	209	1	717
1880	51	152	10	606
1881	232	132		706
1882	71	121	6	649
1883	301	150	15	785
1884	108	168	8	717
1885	103	142	26	655
1886	43	100	8	590
1887	220	108	4	698
1888	579	212	28	1,035
1889	308	149	7	1,187
1890	202	158	18	1,213
1891	143	212	2	1,142
1892	109	137	19	1,095
1893	211	151		1,155
1894	128	155	3	1,124
1895	106	128	15	1,087
1896	146	116	2	1,115
1897	124	139		1,100

The lepers at the settlement at the end of 1897 were as follows by nationality:

Hawaiians	984
Half-castes	62
Chinese	32
Americans	5
British	4
Germans	4
Portuguese	6
Russians	1
South Sea Islanders	2
Total	1,100

There are at the settlement 67 nonleprous children and 98 nonleprous helpers, as follows:

Native volunteer helpers	78
Catholic priests	2
Protestant pastor and wife	2
Physician	1
Franciscan sisters	5
Japanese servants to sisters	2
Catholic brothers	6
Japanese servants to superintendent	2
Total	98

It will be noticed that the number of lepers at the settlement during the last ten years has been larger than previously, and that during that period the number has remained fairly constant. This does not indicate that leprosy is on the increase, or even that it is holding its own. The testimony of the government physicians and agents of the board is that it is diminishing. The greater number at the settlement during the last ten years is due to stricter enforcement of segregation, this being the period since the revolution of 1887 when the reform government came into power. Moreover, owing to this stricter enforcement, the lepers are gathered in for the most part now at an earlier stage of the disease than was formerly the case, and consequently the death rate at the settlement is lower now than formerly.

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Undoubtedly as time goes on the number of lepers and the expense of this branch of the service will diminish until it becomes nil.

The lepers live principally in two villages, called Kalaupapa and Kalawao, situated, respectively, on opposite sides of the tongue of land reserved for the settlement. There are 716 buildings at the settlement, the majority of which are owned by the government. These include a court-house, jail, schoolhouses, offices, warehouses, workshops, slaughterhouse, dispensaries, medical bath houses, hospitals, dormitories, many cottages, etc. At Kalawao there is a home for boys, the gift of private persons, conducted under the board of Roman Catholic brothers, and at Kalaupapa a similar home for girls, in charge of Roman Catholic sisters. There is a Young Men's Christian Association, Protestant churches, Roman Catholic, and Mormon churches. A store is maintained by the board for the benefit of the lepers. There is a system of waterworks. A district magistrate goes to the settlement at times from the other side of the island to hold court. There is a band at Kalawao and Kalaupapa each, the members of which are lepers, and the uniforms and instruments for which are the gifts of private persons. The settlement is a little world in itself.

The lepers may erect buildings and cultivate land for their own benefit. Lepers living outside the homes receive weekly rations of food, monthly rations of some other things, such as soap, matches, and oil, and semiannual "clothes-ration orders" of the value of $5. They are exempt from personal taxes, and taxes on their personal property at the settlement. They enjoy a franking privilege as to interisland letters. They may be required to perform a reasonable labor.

Great care is taken to prevent the spread of the disease, although it is not so contagious as popularly supposed. Visitors are not allowed at the settlement except by express permission, nor are persons residing there allowed to leave the settlement without similar permission. Passenger vessels of over 250 tons are forbidden to carry lepers except as directed by the board. Financial transactions with the outside are conducted by means of postal orders, money seldom leaving the settlement, and then only after it is purified. Great care is also taken to preserve cleanliness at the settlement.

At Kalihi, near Honolulu, there is a home for nonleprous girls of leprous parents in charge of Franciscan sisters. At the same place there is a receiving station for the reception and examination of leper suspects sent from the various districts; also a hospital for special study and treatment of leprosy, with a bacteriological laboratory, in charge of a specialist.

The leper settlement is conducted economically as well as with great efficiency. The cost of conducting the settlement and the establishment at Kalihi together amounts to only about $100 per leper per annum.

How far internal health matters as distinguished from quarantine should be controlled by the Federal Government would depend largely upon the nature of those matters and the manner in which the control is exercised. It would seem that the power of Federal control should exist over contagious and infectious diseases as distinguished from other internal health matters. These are diseases the control of which is of vital interest to the whole people. It does not follow, however, that this power should always be exercised directly by the Federal Government or exclusively through Federal officers; but in cases of conflict between Federal and local power, when exercised in

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this respect, the former should be predominant, the latter subordinate or auxiliary. The main object is to secure protection, both to the people at large and to the localities more directly concerned, and at the same time to work as little hardship and cause as little offense as possible. Leprosy is the only domestic contagious disease in Hawaii that need be specially considered. The native Hawaiians are the people to whom this disease is almost exclusively confined. They have little or no fear of this disease and are peculiarly devoted to their friends and relatives. It therefore requires a great deal of tact and good judgment to enforce segregation without giving undue offense or working undue hardship. In the past attempts to enforce segregation have more than once led to bloodshed. But at the present time it is believed that such experience has been had by the officers and agents of the Hawaiian board of health that strict segregation may be enforced with comparatively little friction. Officers who have not had such experience and who do not understand Hawaiian ways and character would encounter great difficulties and cause great discontent. The Federal Government could not do better, either in point of economy or in point of effectiveness, at least so long as present conditions continue, than to permit this disease to be controlled through the local officers and the existing machinery. But it would seem to be only just that the Federal Government should share in the expense.

MISCELLANEOUS.

The board has charge of a dispensary on Oahu and one hospital on each of the other principal islands, and assists a second hospital on the island of Kauai. It assists also a maternity home in Honolulu. It has charge of an insane asylum in Honolulu. It has charge of the inspection and location of slaughterhouses and inspection of animals to be slaughtered, the special inspection of fish, the inspection of food supplies in general, and inspection and removal of garbage. It has been called upon to pay considerable attention to tuberculosis in neat cattle, to sewerage, and to filtration. It is obliged to examine into nuisances, sources of filth, and causes of sickness of all kinds and to abate them, also to look after the sanitary condition of dwelling and lodging houses and to determine the number of people who may be lodged in the latter. It may enforce the improvement of land deleterious to the public health by reason of being low and wet or for other reasons. It controls licenses for the practice of medicine. It alone may import opium. It keeps a record of births, deaths, and marriages. It has charge of what is known as the act to mitigate. This act requires all common prostitutes in Honolulu to register and to be examined at least once in two weeks by an appointed physician. They are treated free of charge. They are not licensed. The board has charge also of the examination and vaccination of all school children, which is required by law. It also exercises certain supervision of cemeteries.

As already mentioned, the board has physicians in most districts of the islands. These physicians inspect leper suspects, inspect schools, vaccinate school children, and treat free of charge those of all nationalities who can not afford to pay for treatment. They are paid small salaries, which may be considered partly in the nature of subsidies for living in the outer districts and partly in the nature of compensation for the services they perform free of charge.

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COST.

The expenditures under the board of health for the years 1896 and and 1897 were as follows:

	1896.	1897.
Salary of secretary	$1,800.00	$1,800.00
General expenses:		
Pay roll	8,507.65	10,092.35
Expenses	4,676.02	1,323.98
	13,183.67	11,376.33
Pay of government physicians	17,065.00	18,136.75
Medicines	3,685.88	4,523.76
Quarantine:		
Pay roll	600.00	600.00
Expenses	7,205.57	2,794.43
	7,805.57	3,394.43
Segregation of lepers:		
Pay roll	18,855.20	18,001.71
Expenses	86,248.73	87,751.27
	107,103.93	105,753.98
Support of nonleprous children:		
Pay roll	436.00	456.00
Expenses	2,131.06	2,794.24
	2,587.06	3,250.24
Shed at Kalaupapa	295.46	204.54
Medical bath house at Kalaupapa	793.03	54.19
Hospitals:		
Pay roll	3,600.00	3,524.00
Expenses	4,223.71	6,776.29
	7,823.71	10,300.29
Insane asylum:		
Salary	1,800.00	1,800.00
Pay roll	10,854.00	11,108.00
Expenses	14,748.47	14,251.53
	27,402.47	27,159.53
Act to mitigate:		
Pay roll	1,035.00	1,080.00
Expenses	161.47	838.53
	1,196.47	1,918.53
Aid to maternity home	2,000.00	2,000.00
Removing garbage:		
Pay roll	4,672.00	4,860.00
Expenses	3,882.84	1,610.44
	8,554.84	6,470.44
Opium act, expenses	1,870.48	289.82

SUMMARY.

Secretary, general expenses, physician, and medicines	$35,734.55	$35,836.84
Quarantine	7,805.57	3,394.43
Segregation of lepers, support of nonleprous children, and buildings for lepers	110,323.48	109,262.95
Hospitals, insane asylum, act to mitigate; maternity home	38,422.65	41,378.35
Removing garbage	8,554.84	6,470.44
Opium act	1,870.48	289.82
Total	202,711.57	196,632.83

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The store at the leper settlement is self-supporting. It disposes annually of about $40,000 worth of goods, of which about $24,000 come back to the Government, and about $16,000 go for supplying the lepers with clothing, shoes, and other necessaries. Besides the receipts from this store, realizations amounting to about $7,000 per annum come into the treasury through the Board from hospital receipts, excavation receipts, sales of hides and tallow, etc.

The legislature at its last session appropriated $257,000 for sewerage for the city of Honolulu.

Respectfully submitted.

W. F. FREAR.
JNO. T. MORGAN.

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REPORT OF SUPT. H. S. PRITCHETT.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., July 27, 1898.

Dr. H. S. PRITCHETT,
Superintendent Coast and Geodetic Survey,
Treasury Department.

SIR: By direction of the President you are authorized and directed to visit Honolulu, Hawaiian Islands, in the course of your summer inspection on the Pacific coast, and to confer with the commissioners appointed by the President, and with the surveyor-general of Hawaii, in regard to the condition of the surveys of the coast of those islands, and the extent of existing records pertaining to such surveys, and their proper disposition as a part of the general records of surveys of the United States, with a view of completing the charts of that portion of the United States territory lately annexed in a proper manner and in a manner consistent with the work done on the other coasts of the United States.

Respectfully, yours,

L. J. GAGE,
Secretary.

Approved.
WILLIAM MCKINLEY.

HONOLULU, HAWAIIAN ISLANDS, *September 1, 1898.*

Hon. S. M. CULLOM,
Chairman Commissioners to Hawaiian Islands.

SIR: I am directed by the President and Secretary of the Treasury to visit the Hawaiian Islands and to confer with the commissioners appointed by the President, and with the surveyor-general, with a view to complete the charts of this portion of the United States recently annexed in a manner consistent with the work done on the other coasts of the United States.

In accordance with these instructions, a copy of which is attached hereto, I have the honor to offer the following statement of the work already accomplished in the survey of these islands, and certain suggestions with regard to the continuation and completion of this work in a manner comparable with that pursued in other portions of the United States.

GEODETIC WORK ALREADY DONE IN THE HAWAIIAN ISLANDS.

BY THE HAWAIIAN GOVERNMENT SURVEY.

In 1870 the legislature of the Hawaiian Islands appropriated $5,000 to procure the requisite instruments and begin a survey of the Kingdom. Correspondence was opened with the Superintendent of the

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United States Coast and Geodetic Survey, and orders for instruments were placed with the firm of Troughton & Sims, of London.

At this time an organization was effected, consisting of a surveyor-general and a number of assistants. A base line was chosen 4½ miles in length on Maui, and was measured during the year 1871. From this a triangulation was developed, which has passed entirely around East Maui, and which, moreover, reaches the summit, accurately locating the crater of Haleakala. This was the beginning of the geodetic work. Since then other bases have been measured, and the primary triangulation has been extended so as to connect the six islands, Oahu, Molokai, Lanai, Maui, Kahoolawe, and Hawaii. Kauai and Niihau have not yet been connected with other members of the group, as the distance is too great for a triangulation. However, Kauai has been located in latitude by methods of precision, and Captain Tupman's Transit of Venus station on this island gives it a very fair accuracy in longitude. Based on this primary triangulation which connects the islands other work has been done, such as a complete triangulation around Oahu, passing by Pearl Harbor and Waialua and returning on the windward side. Complete surveys have been made of the islands of Molokai and Lanai. A reconnaissance and preliminary triangulation of Kauai was executed in 1877 and 1878, which served as the framework for a map of that island, chiefly compiled from former surveys. On Hawaii a triangulation has been completed entirely encircling the island. The land surveys made on the different islands have been based on the triangulation just referred to.

WORK ACCOMPLISHED WITH THE ASSISTANCE OF THE UNITED STATES COAST AND GEODETIC SURVEY.

Work has been done by the United States Coast and Geodetic Survey in the Hawaiian Islands in 1883, 1887, 1891, and 1892. In 1883, on the return of the Coast Survey expedition from the South Sea Islands, a latitude and gravity station was made at Honolulu, and also at Lahaina, on Maui. After the triangulation connecting Oahu with Maui had been completed a large discrepancy in latitudes appeared, which could only be explained on the theory that extraordinary deflections of gravity existed in the islands. This led to a request from the Hawaiian government that an officer of the Coast and Geodetic Survey should be granted a leave of absence, and instruments should be loaned that would permit of the determination of a number latitudes throughout the entire group, in order that their triangulation might be placed on a trustworthy basis. The plan was carried out, and in 1887 14 latitude stations of precision were made in the group. Of these, 3 were on Kauai, 3 on Oahu, 4 on Maui, and 4 on Hawaii. In addition, the force of gravity was determined at the base and summit of Haleakala, from which a value of the mean density of the earth was determined. A contour map for equal elevations of 500 feet being furnished by the Government survey, it was possible to calculate the attraction to be expected on the south side of Maui from the influence of the mountain. In 1891, an officer of the Coast and Geodetic Survey being at Waikiki, an expedition was planned by the Hawaiian government survey, for which they paid nearly all the expenses and furnished a number of assistants for the work, to determine the force of gravity on the island of Hawaii at the sea level, at the half-way point, and on the summit of Mauna Kea. Connected

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with this expedition a magnetic programme was carried out, and observations were made at a number of points on the principal islands, notably at Kealakeakua Bay, where Captain Cook observed one hundred and twenty years ago, and at Lahaina, where De Freycinet made a station in 1819.

OTHER OBSERVATIONS.

Besides the work done by the Hawaiian government survey in the regular prosecution of its task and the work accomplished by the United States Coast and Geodetic Survey, a number of other scientific expeditions have landed and made observations on the islands. Vancouver, as early as 1791, made some measurements of the coast line, and prepared a chart of some parts of the kingdom. In 1819, as before mentioned, De Freycinet made some pendulum observations on Maui. In 1825 Lord Byron made measurements in the Bay of Hilo, and around the crater of Kilauea. About the same time Ellis, a missionary, made longitude and natural-history investigations throughout the group. In 1841 the Wilkes exploring expedition visited the islands, and measured the force of gravity, which observations have never been published. In 1845 the late Prof. C. S. Lyman, of Yale College, established the first astronomical observatory, and by systematic observations of the moon's passage determined the first astronomical longitude for Honolulu. In 1868 the French naval officer Fleuriais made a determination of the longitude of Honolulu from twenty-seven transits of the moon.

He gave the value as $10^h\ 31^m\ 22^s$, a result which seems to be about five seconds smaller than the actual value. In 1874 the English Government sent three astronomical expeditions to the Hawaiian Islands to observe the transit of Venus. One of these, under the direction of Captain Tupman, established a station in Honolulu and determined the longitude, giving as a result $10^h\ 31^m\ 26.7^s$. From 1873 to 1876 the American ship *Tuscarora* and the English ship *Challenger* visited the islands, engaged in their deep-sea work. In 1877 the German warship *Elizabeth* made observations of the ocean currents and deep-sea temperatures near the islands. In 1882 the American Government sent a geological expedition, under the direction of Captain Dutton, which made a study of the Hawaiian volcanoes. In 1891 the International Geodetic Association sent observers to Honolulu for the sake of studying the changes of latitude. In 1892 the *Albatross* made deep-sea investigations looking to the establishment of a cable between California and Honolulu. In 1897 a careful survey of Pearl Harbor was completed by officers of the United States Navy.

HYDROGRAPHIC WORK ALREADY ACCOMPLISHED.

In the absence of proper vessels suited to the work, it has not been possible for the Hawaiian government survey to carry out any extensive hydrographic work. Partial surveys were made by Mr. G. E. G. Jackson, under the direction of the surveyor-general, of sixteen important harbors and bays, and also a partial survey, scarcely more than a reconnoissance, of a proposed interisland cable route. The soundings made by Mr. Jackson were principally in Kauai, Oahu, Molokai, Maui, and Hawaii harbors, and were made between the years 1882–1886. Since then they have been published by the United States Hydrographic Office. These surveys, while limited in number, form valuable data for comparison when a complete survey is

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made. Excellent surveys of the harbors of Honolulu and Pearl Harbor have been made by officers of the United States Navy, the triangulation points on these being furnished by the Hawaiian government survey.

PRESENT STATUS OF THE GOVERNMENT SURVEY.

The Hawaiian survey, as at present organized, is a bureau of the department of the interior. Besides the surveyor-general, five persons are employed in the office, the annual salary roll amounting in all to $13,680. An annual appropriation of $22,500 is made for field work (to include all work done by the public lands commission); $1,000 is appropriated for office expenses, publication, etc., and $600 for meteorology and tides; in all, a total expenditure of $37,780 annually

It will be noted that while the survey has carried out a system of triangulation throughout the islands, by far the larger part of its present work consists of the survey and subdivisions of the public lands. This part of the work, which is in fact a cadastral survey, is under the general direction of the lands commission.

The value of the property in the hands of the Government survey at this date is estimated by Professor Alexander, surveyor-general, as follows:

Office furniture and belongings	$2,000
Manuscript maps, records, and field books	253,250
Surveying instruments	2,000
Clock, chronometers, and meteorological outfit	800
Tools and field outfits	400
Library, including foreign maps	500
Island maps for sale or distribution	500
Observatory building and pier	300
Tide-gauge building, well, and instrument	250
Total	260,000

It will be seen that practically the entire value of the property held by the survey is comprised in its collection of manuscript, maps, records, and field books. These records and maps contain the original observations in the triangulation, and consist largely of geodetic data. The value upon them in this estimate is based upon the cost of making them. On account of lack of funds much of the work already done remains unpublished.

GEODETIC AND HYDROGRAPHIC WORK YET NECESSARY TO COMPLETE THE SURVEY OF THE ISLANDS.

To complete the trigonometric survey, which is the basis of all the other work, it remains yet to carry the triangulation around Kauai and Niihau, and to make a geodetic connection between the islands of Hawaii and Maui. As soon as a cable is laid, the difference of longitude between San Francisco and Honolulu will be accurately determined. Magnetic observations need to be made at a number of points. The most important survey work to be taken up, however, and that which is of immediate need, is the hydrographic survey of the coast, and particularly of the more important harbors and bays. Except in the case of Honolulu and Pearl Harbor, there are no surveys of harbors of sufficient accuracy to furnish safe data for estimating necessary improvement, and even in the case of these harbors it will be necessary to make a careful study of the currents and tides. In the case of Hilo, Kahului, and other harbors, a careful survey and

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a study of the currents and tides are necessary to furnish the data for solving the problems of engineering involved in any improvement. As an economical and efficient manner of completing this survey, and to preserve at the same time the continuity of the records, I beg to suggest the following plan:

(1) That the work of subdivision of public lands be assigned to that department of the government, as it may subsequently be organized, which will have in charge the public lands.

(2) That the Hawaiian trigonometric survey be made a part of the Coast and Geodetic Survey of the United States, and that the maps, records, and field works of the present survey become a part of the general records and archives of the Coast and Geodetic Survey; and that the Coast and Geodetic Survey shall then proceed to complete the geodetic and hydrographic work necessary to furnish charts of the coast and harbors of the Hawaiian Islands on the same plan as the surveys of the other harbors of the United States.

To facilitate the execution of this work it will be necessary for the Coast and Geodetic Survey to maintain a suboffice in Honolulu similar to that maintained in San Francisco. On account of his long experience in the work, it is extremely desirable that Prof. W. D. Alexander, surveror-general, be made an officer of the Survey, to remain in charge of the suboffice at Honolulu, under the general direction of the central office at Washington. Since the subdivision and survey of the public lands rest upon the trigonometric survey, it would be necessary that the office in charge of the geodetic and coast work should furnish all necessary data to the survey of public lands.

Respectfully, yours,

HENRY S. PRITCHETT.

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REPORT OF COMMITTEE ON HARBORS AND COASTS.

Hon. SHELBY M. CULLOM,
Chairman of the Hawaiian Commission:

The undersigned respectfully submit the accompanying statements as their report on harbors and coasts:

Over twenty harbors were surveyed for the Hawaiian Government by Mr. C. E. G. Jackson, a retired navigating lieutenant in the British navy, during the years 1881–1884, viz:

Island of Hawaii.—Hilo, Kawaihae, Kailua, Keauhou, Kealakekua.

Island of Maui.—Kahului, Nuu, Napili, Maalaea, Pueokahi, Hana.

Island of Oahu.—Kaneohe Bay, Waimanalo, Hanauma, Waialua, Waimea, Waianae, Laie, Kawaihoa Bay between Koko Head and Diamond Head.

Island of Kauai.—Hanalei, Waimea, Nawiliwili, and Hanamaula.

Island of Molokai.—Pukoo, Kamalo, and Kaunakaki.

Besides the above the harbor of Mahukona, Hawaii, was surveyed by Mr. J. S. Emerson. Elaborate surveys of the harbors of Honolulu and Pearl Lochs have been made by officers of the United States Navy.

Charts of the above harbors, with the exception of Kaneohe Bay and Mahukona, have been published by the Hydrographic Office of the United States Navy. All the foregoing charts referred to are on file in the Survey Office.

PRINCIPAL LANDINGS IN THE HAWAIIAN ISLANDS.

ISLAND OF KAUAI.

Nawiliwili.—Two landings. One on the west side belonging to the government; one on the north side owned by W. H. Rice.

Hanamaulu.—Two landings on the north and south sides, owned by Lihue plantation. They are built on sidings over the shore out into the sea. There is a breakwater on the south side.

Wailua.—Boats land on the beach; public.

Kapaa.—Private landing of Makee Sugar Company, with a pier.

Anahola.—Open roadstead; no wharf; public.

Moloaa.—Open roadstead; no wharf; public.

Kilauea.—Private wharf of Kilauea Sugar Company; projects out into the water, but is not a regular pier; on the land of Kahili.

Kalihiwai.—Boats land on the beach; public.

Hanalei.—Public landing; no wharf; boats land on the beach at the mouth of the river.

Waimea.—A pier owned by the government.

Makaweli.—A private wharf.

Eleele and Hanapepe.—Private wharves at both.

Koloa.—A private wharf.

ISLAND OF OAHU.

Waimanalo.—Private landing owned by plantation.

Kaneohe.—Public landing on beach.

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Heeia.—Pier owned by plantation.
Kaalaea and Kahaluu.—Public landings on the beach.
Waikane.—Boats land on beach; public.
Punaluu.—Small private pier.
Hauula.—Boats land on beach; public.
Laie.—Pier owned by Kahuku plantation.
Waimea.—Boats land on beach; public.
Waialua.—Boats land on beach; public.
Mokuleia.—A wharf and several smaller landings; all private.
Waianae.—A pier owned by Government.
Pearl Harbor.—Several small private landings.
Honolulu.—All the wharves are owned by the Government, with the exception of one private wharf, the property of Allen & Robinson.

ISLAND OF MOLOKAI.

Kaunakakai.—Government wharf; boats land on beach.
Kamalo.—A Government wharf.
Pukoo.—Government wharf.
Honomuni.—Boats land on beach; public.
Pauwalu Harbor.—Boats land on beach; public.
Halawa.—There is a sort of stone place that boats come to; not a regular wharf; public.
Wailua.—Boats land on beach; public.
Pelekunu.—Boats land among the rocks; public.
Leper settlement.—Government wharf; boats come alongside.

ISLAND OF LANAI.

Awalua.—Land on beach; no wharf; private.
Kaumalapau.—Land right up among the rocks; private.
Manele.—Land on the beach; private.
Kahalepalaoa.—Land on the beach; private.

ISLAND OF MAUI.

Lahaina.—Pier running out into the sea; Government wharf.
Olowalu.—Private landing; pier running out into the water.
McGregor's Landing.—Land on the beach; public.
Maalaea Bay.—Government wharf; pier, alongside which the boats come.
Kihei.—Government landing; pier.
Makena.—Government wharf.
Nuu.—Small Government wharf; boats come alongside.
Kipahulu.—Private landing; freight is hoisted from the boats by a derrick.
Hamoa.—Government wharf.
Hana.—Government wharf.
Nahiku.—Public landing; no wharf.
Keanae.—Government landing; boats come alongside.
Huelo.—Private wharf.
Maliko.—Private wharf.
Kuau at Paia.—Private wharf.
Kahului.—Private pier running out into the sea.
Kahakuloa.—Land on the beach; public.
Honokahau.—Land on the beach; public.

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Napili.—Land on the beach; public.
Honokawai.—Public landing.

ISLAND OF HAWAII.

Mahukona.—Private wharf of Wilder Steamship Company.
Kawaihae.—Government wharf.
Kailua.—Government wharf and warehouse.
Keauhou (*Kona*).—Government wharf.
Kealekekua Bay.—Two Government landings, one at Kaawaloa, which is used occasionally, and the other at Napoopoo, which is used principally.
Honaunau.—Land on the beach; public.
Hookena.—Government wharf.
Hoopuloa.—Land on the beach; public; no wharf.
Kaalualu.—Government landing.
Honuapu.—Pier owned partly by Government and Hutchinson Plantation Company.
Punaluu.—Private wharf, terminus of Inter Island Company.
Keauhou (*Puna*).—Private wharf.
Kalapaua.—No wharf; public landing.
Pohoiki.—Government wharf.
Hilo.—There are three Government wharves; one at Hilo proper, one at Waiakea River, and one at east side of harbor.
Wainaku.—Private landing; freight hoisted by derrick.
Papaikou.—Private wharf.
Pepeekeo.—Private boat landing.
Pohakumanu.—Private boat landing.
Honomu.—Private boat landing; wire cable used for loading and unloading freight.
Hakalau.—Private landing; freight loaded and unloaded by use of a derrick.
Laupahoehoe.—Government wharf.
Ookala.—Private wharf; wire cable used.
Kukaiau.—Private landing owned by Kukaiau mill. Freight is raised by a derrick, swung around on the cars, and pulled to the top of the bluff by cables.
Kohalalele.—Private landing of the Hamakua mill. Freight is raised by a derrick from the boats.
Paauhau.—Private landing; freight raised by derrick.
Honokaa.—Private landing; freight raised by derrick.
Kukuihaele.—Private landing; freight raised by derrick.
Waipio.—Land on the beach; public.
Pololu.—Land on the beach among the rocks.
Niulii.—Private boat landing of the Niulii plantation.
Keokea (*Kohala Landing*).—Private wharf.
Honoipu.—Government landing, where passengers are landed in rowboats, and private landing, where freight is loaded by means of a wire cable.

SANFORD B. DOLE,
R. R. HITT,
Committee on Harbors and Coasts.

HONOLULU, *September 16, 1898.*

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REPORT OF COMMITTEE ON AGRICULTURE.

Hon. SHELBY M. CULLOM,
Chairman of the Hawaiian Commission:

I have the honor to submit the following report on agriculture:

Lands under the control of the Hawaiian Government previous to annexation are divided into two general classes, one of which includes town lots, sites of public buildings, land devoted to public uses, such as roads, landings, nurseries, forest reservations, reservations for conservation of water supply, and public parks—generally designated as Government lands, which remain under the management of the minister of the interior; all other lands are placed under the control of the commissioners of public lands, under the designation of public lands.

These are classified as agricultural, pastoral, pastoral agricultural, forest, and waste land.

Agricultural land is divided into three classes:

First class. Land suitable for the cultivation of fruit, coffee, sugar, or other similar crops, with or without irrigation.

Second class. Land suitable for the cultivation of annual crops only.

Third class. Wet land.

Pastoral land is divided into two classes:

First class. Land not within the description of agricultural land, but capable of carrying live stock the year through.

Second class. Land capable of carrying live stock only a part of the year, and otherwise inferior to the first class.

These divisions of the public lands are necessarily somewhat arbitrary and only approximate definiteness in description. For instance, some first-class pastoral land is fair second-class agricultural land, and much of the pastoral land of both the first and second classes becomes first-class agricultural land upon the application of irrigation.

Wet land is used as such for the cultivation of only taro and rice, but it is sometimes dried off or drained and used for the cultivation of sugar.

First-class agricultural land may be loosely divided into sugar land and fruit and coffee land, the former generally lying at low elevations and the latter beginning where the former leaves off and reaching near to the frost line, though all sugar lands are more or less suitable for the cultivation of some kinds of fruit.

The staple agricultural products, leaving out for the present the subject of live stock, are taro, sugar, rice, coffee, and bananas.

Taro is the staff of life to the aboriginal Hawaiians, and is entirely consumed at home, except a small amount of taro flour, which is exported. It is generally raised in wet land, but it grows well and is cultivated to a considerable extent in dry land. The crop is a profitable one, but has suffered in recent years from the attacks of various insect pests.

There are no statistics from which information can be obtained as to the aggregate annual yield and average profits of this crop.

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Sugar was first grown in the Hawaiian Islands on lands enjoying a sufficient rainfall the year through for its successful cultivation, and it is still extensively produced on such lands. Irrigation by gravity from running streams was introduced at an early period, and the results were so beneficial that its development was rapid, and extensive arid areas in different parts of the islands were thus reclaimed. Irrigation by water artificially raised was a later enterprise, and has become especially successful in recent years through radical improvements in pumping machinery. Fertilizers are almost universally used by sugar growers with satisfactory results. Steam plows are generally used where the character of the land permits, with marked improvement in the productive quality of the soil.

It is probable that sugar production depending upon a water supply from rainfall or from streams by gravity flow has nearly reached its limit, and that all future increase in the sugar production of the Hawaiian Islands will be through aid of pumping machinery.

As substantially all of the sugar produced in these islands is exported, the custom-house statistics fairly give the extent of the production. This for 1897 was 520,158,232 pounds, worth $15,390,422.13.

Rice is always grown in wet land and is almost entirely cultivated by the Chinese, many of whom have improved machinery moved by water power for preparing the crop for the market. Two crops are raised each year from the same land. Fertilizers are much used. The product is of the best quality. While there is a large consumption of rice at home, the export for 1897 amounted to 5,499,499 pounds, worth $225,575.52.

The cultivation of coffee is a comparatively new enterprise, only a few of the plantations being as yet in full bearing. Coffee was tried on a considerable scale in the fifties, but was a failure through insect pests. At that time it was generally cultivated on low lands; now it is agreed that in this country coffee should be cultivated at elevations between 300 or 400 and 2,500 feet above the sea. The best soil for it is loose alluvium over a subsoil of aa (broken volcanic rock). The elevation required for its cultivation places it well within the forest belt, a circumstance which often calls for a considerable outlay for clearing. Irrigation is seldom used in coffee culture. Four or five years from transplanting are required by a coffee tree for reaching a full bearing capacity.

Coffee raising can be favorably carried on upon a small scale, although in the pulping and cleaning processes cooperation among neighboring planters is desirable.

On account of the increasing demand for coffee lands, and the fact that this enterprise can be profitably carried on in small holdings, the Government has devoted its energies, under the settlement provisions of its land legislation, mainly to the opening of coffee lands to settlement in small farms within 100 acres in extent, except in the Olaa coffee region, where pioneer holders of original crown leases were allowed to acquire, upon the basis of such leases, a larger area. These lands have been eagerly taken up by actual settlers, and are generally prosperous. In the last biennial period 422 holdings, not including the Olaa lots, were taken up, including an aggregate area of 20,234 acres and worth, at the moderate government appraisement, $118,853, unimproved value. The agreements under which these lots were taken require performance of conditions of residence and cultivation in some cases, and of cultivation and other improvement in others, and in no case confer immediate title in fee.

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The area of good coffee land as yet unoccupied is comparatively large. A large part, however, of the public lands of this class is held under leases to private parties. The expiration of the terms of these leases will, from time to time, augment materially the area under the control of the Government suitable for settlement purposes.

As land suitable for coffee culture corresponds generally with forest land, the policy of land settlement is confronted with the consideration of the subject of forestry. A wholesale substitution of coffee plantations for forest growth might seriously affect local climatic conditions to the extent of producing permanent injury to surrounding agricultural interests. This subject should be fully investigated before any settlement enterprises involving extensive forest destruction are decided on.

There is a considerable local consumption of Hawaiian coffee. The export for 1897 amounted to 337,158 pounds, estimated to be worth $99,696.62.

The banana is a hardy plant without insect enemies and is cultivated largely with irrigation. It requires a fertile soil and thorough cultivation, and can be raised from the seashore nearly up to the frost line. The yield is large and the crop, as raised for export, a profitable one. In 1897 there were exported 75,835 bunches, valued at $75,412.50. There is also a considerable home consumption of this fruit.

Under free trade with the main land the cultivation of pineapples, avocado pears, and tobacco, and the manufacture of taro flour and jams and jellies and the canning of fruit will undoubtedly become profitable. Other fruits and some vegetables will be profitably raised for the Pacific coast markets.

Indian corn, Irish and sweet potatoes, and garden vegetables are successfully and profitably raised for the home demand.

The raising of live stock has, as a rule, been carried on in a haphazard way, relying upon the natural growth of native grasses for pasturage, without other feeding. While considerable attention has been paid to the improvement of all kinds of stock by the introduction of good blood, the condition and quality of live stock at the islands on the whole is not very creditable to the country; yet the business is generally profitable.

With increased communication with other countries, numerous insect pests have been introduced, some of which have very seriously threatened certain crops. To meet this invasion, the Government, acting jointly with the Sugar Planters' Association, has for several years kept an able entomologist in its employ, whose efforts have been directed to the introduction of enemies of the insect pests and have been attended with marked success.

Under a new form of government it will be important to the country that it should have full authority to protect itself against the chance importation of injurious insects, even from the rest of the United States.

SANFORD B. DOLE.

HONOLULU, *August 30, 1898.*

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REPORT OF COMMITTEE ON EDUCATION.

In 1843 a department of public instruction was organized and placed in charge of a minister of the Crown, although as early as ten or twelve years from the advent of the first missionaries (1820), schools had been general throughout the country. In 1841 a school was established by the American missionaries at Punahou, in the vicinity of Honolulu, which has developed into what is now known as Oahu College. A government reformatory school was founded in 1865, and in the same year the legislative assembly created a board of education and organized a public school system, so well founded as to have survived to the present time without any radical changes.

By an act of the legislature of 1896, the school system of Hawaii, which for thirty years had been a bureau of the government, was put upon a firmer basis and constituted an Executive Department, making the minister of foreign affairs ex-officio minister of public instruction, presiding over a board of six other commissioners, appointed by the President of the Republic, and whose term of office is three years, one-third of the board retiring every year. Two of the commissioners are ladies and all the members serve without compensation.

The early public schools were all taught in the Hawaiian language, and used Hawaiian text-books. About the year 1850, English schools were instituted by the government to meet the popular demand and the growth of the English speaking classes of the islands, the tuition for which a small fee of $5 a year for each pupil was charged.

This class of schools steadily increased in numbers till 1888, when they were made free schools by law. Since then the schools conducted in the Hawaiian language have rapidly given way to free English speaking schools, which latter language by the school act of 1896 was made the medium and basis of instruction in all schools, public and private, until now there exists only one public school taught in the Hawaiian tongue, which is upon the island of Niihau. Chinese residents maintain a number of small schools devoted to the teaching of their own language, the instruction in which is only permitted outside of government school hours.

The theory of the Republic being that the government is responsible for the elementary education at large of all children within its jurisdiction, we find education in the Hawaiian Islands to be universal, to be compulsory and free. The law requires that every child between the ages of 6 and 15 years, inclusive, shall attend either a public or private school, in which the English language is the medium of instruction. The government does not undertake to exercise direct control over private or independent schools, but enforces compliance with this requirement in the manner of instruction.

Attendance is enforced by means of truant officers or school police, of whom there are between 40 and 50 in all, and one or more in each district of a nationality agreeing as nearly as possible with the nationalities of the different localities. These officers visit the schools regu-

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larly, secure the names of absentees—whom they look up—as well as also those children not upon the rolls of the government schools between the ages prescribed by law.

The Republic took an advanced position with reference to the entire separation of the church and the state, the Constitution forbidding any aid from the public treasury to "any sectarian, denominational, or private school," and by the new school law of 1896, no priest or minister of religion is eligible to fill the office of minister of public instruction or a member of the board of education. Clergymen may be teachers or instructors in Government schools, but no distinctively religious teaching is permitted.

The school system and its methods are peculiarly American, and in the appointment of teachers race lines receive very little consideration, there being teachers from all nationalities, with the possible exception of the Japanese. During the past few years a normal school has been established at Honolulu, with a practice school attached. It has an enrollment of 50 pupils and is in charge of three teachers. Practical methods of teaching and instruction are given these students, and successful teachers, having a professional training and a familiar acquaintance with the peculiar conditions of the Hawaiian school system, are graduated. Teachers' examinations are held annually, and successful candidates are given certificates based on the averages obtained, the time for which they are good depending on the class of the certificate, whether primary or grammar.

Owing to the local condition existing in many of the out of town districts, where there are no hotels or boarding houses and in many instances no white families within a practical distance of the school, the government has found it necessary to provide free cottages for the use of teachers. The salaries of the regular teaching force are annual salaries, payable monthly, with an average monthly salary of $63.18 for each teacher. The total number of public schools is 132, having a corps of 298 teachers and enrollment of 10,568 pupils, according to the report of the minister of public instruction for 1897. The average number of pupils for each teacher in the islands is 35, and the schools are in session for forty weeks, two months longer than the ordinary school year in the United States.

The Honolulu High School was organized in 1895, and occupies the handsome private residence formerly the palace of Princess Ruth, a sister of Kamehameha IV and V. The school is the pride of the department, both for the beauty of the building and grounds and for the high character of instruction given in it.

Industrial and manual training, the importance of which is fully appreciated by the government, has been only partially provided for. The Lahainaluna Seminary, on Maui, founded in 1831, which exists now as a government school, furnishes instruction in agriculture, carpentry, printing, and mechanical drawing, and the students have raised most of their food. The boys in the reformatory are now learning useful trades, and the experiment of teaching sewing in the public schools has met with marked success.

But the best work in this direction, upon which the government has not been prepared to enter extensively, is being done by independent or private schools, of which there are 60 in all, having a total enrollment of 3,954.

Among these are the mission and private boarding schools for Hawaiian girls, the Kamehameha schools for both boys and girls,

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Oahu College, St. Louis College for boys, besides a number of small schools supported by private enterprise, including several successful kindergartens. The Mills Institute, conducted by Mr. Frank Damon and his capable wife, is a mission boarding school in Honolulu for Chinese boys, who are taught to read and speak English and to become good citizens.

The Kamehameha schools for Hawaiian boys and girls were founded by the late Mrs. Bernice Pauahi Bishop, and the buildings are among the finest in the country. Besides furnishing a good primary and grammar school education the school is provided with commodious and well-equipped workshops for carpentry, wood and metal working, as well as for the training of girls in housekeeping and modes of living generally. There is also in connection with this school a normal and training department.

The most advanced and comprehensive course of study is furnished by the Oahu College, situated in the suburbs of Honolulu. This well-developed and flourishing institution has grown out of a small school founded by the American mission in 1841. It possesses a commodious group of modern buildings and extensive grounds, and furnishes what is virtually a high-school course, as also a thorough classical course and preparatory department furnishing instruction in the sciences, modern languages, music, drawing, etc. The high standing of its graduates in universities of the United States speaks well for the training received here. An endowment of $285,000 has been built up, and the institution is rapidly becoming the equal of many of the American colleges.

The St. Louis College for boys is a large boarding and day school in charge of the Brothers of Mary, doing effective work and having over 500 pupils in its various departments. Iolani College, under the direction of the Anglican bishops of Honolulu, is a well-conducted academy for boys.

With reference to the cost of education in the Hawaiian Islands, it is interesting to know that over one-eighth of the expenditures of the Hawaiian government have been for the support of public schools, viz, $371,917.23, being the amount of expenditures for the biennial period ending December 31, 1897. Of the total appropriation ($4,471,780.02) made by the last legislature for the two years ending December 31, 1899, $618,800 of which was appropriated for school purposes, or at the rate of $309,400 per annum, which, for a country having not much over 100,000 inhabitants in all, may be regarded as liberal indeed. Of the sum mentioned as the aggregate appropriation for the current expenses of the department for the biennial period, $404,000 is required for salaries and pay rolls, mostly for teachers. The average salary paid government school teachers for the year ending December 31, 1897, was $750. A comparison of the absolute and relative cost of education in the United States and in Hawaii has been made from the last report of the Commissioner of Education of the United States and that of the minister of public instruction, which shows that the cost of schooling per day is greater per pupil in the United States than in the Hawaiian Islands. In estimating the comparative cost of tuition and of education in general in the two countries it is necessary to take into consideration the length of the school year, which in Hawaii is nearly sixty days longer than the average number of school days in the United States.

The Western division of the United States referred to below com-

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prises Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, Idaho, Washington, Oregon, and California. California is also compared individually.

Comparative table of expenditures for education in Hawaii and in the United States of America.

	Average number of school days during the year.	Total cost of education per pupil.	Total cost of education per capita of population.	Cost of tuition and supervision per pupil.	Expenditures for sites, buildings, furniture apparatus, and libraries per pupil.	Average monthly salaries of male teachers.	Average monthly salaries of female teachers.	Percentage of male teachers.	Percentage of female teachers.	Average monthly salaries of all teachers, both male and female.
United States	140.5	$18.92	$2.61	$11.94	$3.32	$47.37	$40.24	32.6	67.4	$42.26
Western division	142.0	27.17	3.53	17.96	3.49	60.03	52.87	29.7	70.3	55.00
California	174.0	31.51	4.08	23.31	3.32	80.19	65.42	20.4	79.6	*68.43
Hawaii	200.0	21.17	2.06	18.50	†1.46	74.55	55.18	41.3	58.7	63.18

*Salaries for California are for 1892–93; all other figures from the United States are for 1895–96; all figures for Hawaii are from the present report.

†Apparatus and teachers' reference books are charged to a different appropriation in Hawaii, but it is estimated that these items would not increase this average by more than 2 cents.

The following tables show that a total of 14,522 pupils were enrolled in the schools, public and independent, of the Hawaiian Islands, at the close of the year 1897. Of the entire attendance nearly 54 per cent was Hawaiian of pure and mixed blood, and 28 per cent Portuguese, the remaining 18 per cent being divided up among the Americans, British, Germans, Japanese, Chinese, and other nationalities. Of the 14,522 pupils, 10,568 were attending government schools, and 3,954 private or independent schools. The public schools, of which there are 132 in number, gave employment to 123 male and 175 female teachers, a total of 298 teachers; and the private schools, of which there are 60, to 82 males and 127 females, a total of 209 teachers. Of all teachers in the country 49.9 per cent are Americans. Hawaiians and part-Hawaii teachers come next, and form 23.4 per cent of the entire teaching force, while British number 13.6 per cent.

Number of schools, teachers, and pupils in the Hawaiian Islands.

	Schools.	Teachers.			Pupils.		
		Male.	Female.	Total.	Male.	Female.	Total.
Public schools, English	131	122	175	297	5,908	4,634	10,542
Public schools taught in Hawaiian	1	1		1	17	9	26
Private schools	60	82	127	209	2,092	1,862	3,954
Total	192	205	302	507	8,017	6,505	14,522

According to the last census of the islands, taken in 1896, the population within the legal compulsory school age was 14,286, being an increase of 2,277, or about 19 per cent in six years while according to the school statistics compiled the same year the total number of children attending all schools, public and private, was 14,023. It will be

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seen that the population within the school age and the numbers actually attending school approximate very closely.

Nationalities.	Number within school age.	Per cent attending school.
Hawaiians	5,467	98.39
Part Hawaiians	2,437	99.01
Hawaiian-born foreigners	4,505	94.40
Americans	126	86.50
British	72	82.75
Germans	62	82.25
French	1	Over
Norwegians	12	100.00
Portuguese	774	85.40
Japanese	147	94.55
Chinese	665	92.48
South Sea Islanders	6	Over
Other nationalities	12	83.33
Total	14,286	96.20

It is apparent that more than one-third of this whole number consists of Hawaiian-born children of unmixed foreign blood. The reason that the American, English, and German do not stand among the 90 per cent is that in many instances their children are educated at home by governesses until they are seven or eight years of age, and others are educated entirely at home.

From the foregoing statements it may be concluded, in the efforts that have been made toward educational improvement, so far as the native Hawaiian and white population are concerned, the percentage of illiteracy is less than in many of the great European countries and less than in many States of the American Union, and it is very rare to find a native Hawaiian under 40 years of age who can not at least read and write his own language.

There are few countries where education is so universal as in Hawaii, and this fact is due largely, perhaps, to the efficient manner of enforcing the law compelling the education of children within the ages of 6 and 15, as a consequence of which very few children of school age in the islands escape being obliged to attend school.

The Hawaiian school system is by no means perfect, but it enables those who enjoy its advantages to read and write in the English language, and the rudiments inculcated in the child can only have a beneficent effect on the man or woman who is afterwards to become the citizen.

The present public-school system in the Hawaiian Islands is such an admirable one that improvements in the system can only wisely be made as the Territory expands in population and intellectual growth. The committee therefore recommend that the present school system remain in force, except that as vacancies in the school board or commissioners may occur their places can be filled by the governor of the Territory of Hawaii and confirmed by the Senate.

The school age might be enlarged to include youths of 18 years and to provide free kindergartens for children between the ages of 4 and 6. The introduction of free text-books, to be furnished by the government, would be of great advantage in a compulsory system of school education, and would mean school libraries, which at present are inadequate to the needs of the pupils in the public schools.

The committee have not felt satisfied to pass by the system of education pursued in the Hawaiian Islands without a short description of the education of lepers on the island of Molokai.

The Baldwin Home, for boys, and the Bishop Home, for girls, in the leper settlement on Molokai, originally the generous gifts of H. P.

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Baldwin and Charles R. Bishop, respectively, but now maintained by the government, are engaged in a useful and noble work in the employment of homeless children who have become victims of this dreaded disease and are now gathered here upon this island.

The Baldwin Home is in charge of Brother Joseph Dutton and five faithful assistants, with an enrollment of 146 boys, who are given the rudiments of an elementary school education and taught the use of tools, the building of roads and fences, and the cultivation of a small tract of ground attached to the home. The site selected for the home a few years ago—a rugged, barren spot—presents now a very attractive appearance. A brass band composed of the inmates of the home is a source of much pleasure and satisfaction to those confined there.

The Bishop Home, for girls, is under the care of a mother superior and sisters associated with her. The institution is the refuge of 126 girls and helpless women who have developed leprosy and have no means of maintaining themselves after being sent to the settlement. They are given, in addition to school routine, instruction in sewing, cooking, ironing, and household arts. The administration of the affairs in these two establishments for the care of helpless and homeless children is admirable, and words can not express the respect and veneration due those in charge, who refuse any remuneration for this devotion to a life work of charity beyond a nominal sum for their individual support upon the island.

There is a third government school in the settlement for day pupils, having an average daily attendance of 23. The object of all education in this settlement, beyond the elevation of people, is merely to keep the leprous children occupied during their early years of confinement on the island. The system of education and employment is highly commendable, and great credit is due the Hawaiian Government for the care and solicitude bestowed upon these poor unfortunates, who are the "wards of the people."

The Kapiolani Home for nonleprous girls of leprous parents is conducted at Kalihi, near Honolulu. Under the care of the Franciscan Sisters the government has provided a home for many little girls born of leper parents. It is exceedingly rare that a child inherits leprosy, and even where both parents are lepers, if the child be removed before it has become infected with the disease there is small danger of its developing leprosy. These nonleprous children are generally taken from their parents when 2 years of age. Sometimes friends of the family provide for them, and in other cases they are taken to the home. In this retreat there are 21 girls, ranging from 2 to 20 years of age, who are not only given a good school education, but trained in such branches of domestic work as are necessary to fit them to become useful members of the community thereafter. This home is for girls, and is insufficient to accommodate the present number of inmates comfortably. There is a necessity for a similar institution for boys and for enlarging the present capacity of the Kapiolani Home.

The committee feel, while the school system for the early education and care of the youth of the Hawaiian Islands is an object of admiration and praise for so small a territory, efforts in this direction should not be relaxed, but should receive the hearty cooperation of the Government.

Respectfully submitted.

S. M. CULLOM.
JNO. T. MORGAN.
W. F. FREAR.

SEPTEMBER 8, 1898.

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REPORT OF THE COMMITTEE ON IMMIGRATION AND LABOR.

At an early date there were occasional visits of Chinese people to Hawaii. A few individual Chinese had, as early as 1845, been permitted to intermarry with Hawaiians, and the interior department of Hawaii has records showing the naturalization of one "Arsing" in that year. An oath of allegiance was required before an alien could marry a Hawaiian. In the past fifty years there have been about 700 Chinese naturalized as Hawaiian citizens. The children of some of the earlier Chinese residents, resulting from their intermarriage with Hawaiian citizens, have become prominent in the social and business life of Hawaii, and, as stated by a well-known observer, the blending of the Chinese and Hawaiian bloods has produced beneficial results. Many of these children have been educated at the best English schools and in the colleges and universities of the United States. A large number have proved worthy of the education bestowed upon them, and not less than fifty have found employment in government and business offices and mercantile houses in Honolulu alone. Some of these earlier Chinese immigrants in Hawaii have, by naturalization and intermarriage, become land and property owners and good citizens. This element of Chinese origin must not, however, be confounded with or mistaken for those who came to Hawaii simply as laborers under contract for a specific term of years authorized, limited, and controlled by the government.

The immigration of Chinese laborers began in 1852, and grew out of what was thought to be the necessities of the people, owing to the decline of the number of Hawaiian laborers. About that time the Royal Hawaiian Agricultural Society issued a circular suggesting the introduction of Chinese coolie labor, and in January, 1852, the bark *Thetis*, brought, under agreement, 180 coolies from China. This experiment was deemed satisfactory by the society, and thereafter, up to January, 1866, there were 1,306 Chinese imported, of whom 54 were women and 5 were children. From 1866 to the present time, the Government and various organizations interested in the labor question have looked after the importation of laborers from other countries besides China. In all, three nationalities, Chinese, Japanese, and the Portuguese colonies, have been drawn upon. The two former still continue to furnish large numbers of laborers, while Portuguese immigration has apparently ceased.

The Hawaiian Government, in 1864, passed an act creating a bureau of immigration for the purpose of superintending the inspection of imported foreign laborers and the introduction of immigrants as laborers. Ordinances were issued by the King authorizing the bureau of immigration to take steps to promote the introduction into the kingdom of free immigrants from the Portuguese colonies, the Azores, the Canary Islands, the Cape Verde Islands, and from "any of the islands of the Pacific Ocean." The Hawaiian bark *R. W. Wood* was ordered chartered to proceed to China to obtain a cargo of Chinese laborers, at the expense of the bureau of immigration.

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In 1865, December 18, Capt. James Makee, of the island of Mauai, master of the Hawaiian schooner *Pfeil*, brought 20 men, 3 women, and 2 children from the Caroline Islands under contracts to labor on his plantation.

In June, 1865, about 15 Marquesans were brought to the islands, partly under the auspices of the bureau of immigration and partly under the board of foreign missions. These, with the Caroline Island immigrants, gave good satisfaction, and their labor contracts were approved by the bureau. In 1865 the question of the importation of Chinese "coolies" was further considered, and under certain regulations the introduction of this class of labor from China became a part of the policy of the Hawaiian Islands. From this time on cargoes of Chinese laborers under contracts for service were frequently and regularly made. The matter of the medical inspection of immigrants became important as a means of protecting the health of the inhabitants against contagious or infectious diseases, and the various steps taken in this direction have finally resulted in quarantine and health protective measures, which at this time are quite efficient.

Various changes in the regulations and statutes controlling the immigration and introduction of foreign laborers were made from time to time by legislative and royal authority. A few inhabitants of the South Sea Islands were brought to Hawaii, and many Portuguese from other island colonies became residents and laborers in the kingdom. Special efforts were from time to time made to induce the importation of females of the several islands and countries from which such importation was desirable.

As time passed, in 1867 and 1868, the matter of providing for the introduction of Japanese laborers became an important question. The Japanese Government interposed its offices, and has since looked after the interests of those of its subjects who have become laborers in Hawaii. So it may be said that as a commercial or business proposition, the matter of the employment of cheap labor, imported from various islands and countries became the important subject of Hawaiian consideration. The large profits resulting from the cultivation and manufacture of sugar, where inexpensive Asiatic labor was to be obtained, produced the legitimate result of aggregating capital in large amounts for the purchase or leasing of sugar lands, where this class of laborers could be employed most profitably. The facilities which existed under the Hawaiian monarchy for obtaining grants, concessions, and leases of government lands were availed of by speculative favorites and others, and large plantations by wealthy planters, instead of small holdings by industrious heads of families, became the rule upon the islands. The cost of irrigation in sugar-producing districts is also an obstacle not easily to be overcome by the small landholder, who could seldom command the funds to erect the dams, sluices, flumes, and expensive works required to convey the water. So that many thousands of acres of the most fertile lands in the world have, by the combined influences above referred to, and others quite as potent, become unattainable by ordinary citizens. The large holdings have become larger and the small ones have been driven out or absorbed. Thus the prime object of American citizenship, the making of homes and the complete development of the family as the unit of our social system, seems, in a degree, to have been lost sight of in the Hawaiian Islands.

The great corporations with special facilities for control of the soil have been often promoted by corrupt royal favoritism or other unjust

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means, and the individual citizen has been, per force, driven from the occupation in which he might have become a useful member of the community. Theoretically, Hawaii is now endowed with the attributes of a republican government, but to become truly and practically a part of our republic the laws of the United States prohibiting the creation or continuance of long leases of valuable lands and directing the survey and subdivision of all of the public lands of the islands as a part of the heritage of the people should be put in force. These lands should be disposed of in such wise and beneficent manner as will make these mountains and valleys the home of a million good American citizens. In the legislation necessary to produce this most desirable future for these insular additions to our system, two imperative agencies must be thoroughly and exhaustively considered. It seems to be admitted that the government of the country should be held responsible, first of all, for a complete system of public roads. The individual landowner ought not to be charged with the expense of building, in this mountainous country, the roads necessary either for the public use or for giving access to his lands or to those of his neighbors. With good public roads the first great hindrance to the building up of homes, of neighborhoods, and communities and schools will disappear. Wherever, in this fertile land we make places for homes, we shall have homes.

Next to a good road system there remains as a necessary and most important agency in the advancement and development of a country aptly termed "The Paradise of the Pacific" a water supply for the irrigation of the lands. The recent establishment of great pumping plants and the sinking of artesian wells have shown that vast quantities of water can be profitably raised to a height of hundreds of feet and made directly available for a great acreage of the most valuable products of the soil. This artesian water may prove to be the complete means right at hand for converting large tracts of the plateau lands of all these volcanic highlands into the food-producing farms of the Pacific. Not only sugar, but coffee, cotton, fibers, fruits (tropical and temperate), vegetables, grains, cereals, rice, taro, the grasses, and a whole catalogue of productions of the soil may be profitably grown. With good roads and adequate water supply, what more would be required which the genius of the people could not supply? What more is needed to inaugurate in the Territory of Hawaii a foundation for the highest type of citizenship and the best manhood and womanhood than the evolution of the home and farm?

We would therefore recommend the careful consideration of the propriety of fostering by legislation, either national or territorial, the building of roads and the development of the artesian water supply as among the principal means by which the lease system, the contract-labor system, and the system of farming by corporations may be broken up, and a basic establishment for the making of farms and homes and the consequent growth and education of good citizens be established.

The existing situation in Hawaii in regard to foreign contract labor is illustrated by the following table compiled from official sources, showing the total number of sugar-plantation laborers now employed on the principal islands of the group:

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Table showing location, number, and nationality of all laborers on Hawaiian sugar plantations December 31, 1897.

Island.	Name of plantation.	Hawaiian.			Portuguese.				Japanese.			Chinese.		South Sea Islanders.		Americans.	British.	Germans.	Other nationalities.	Total.	Aggregate.
		Men under contract.	Men—day labor.	Women.	Men under contract.	Men—day labor.	Women.	Minors.	Men under contract.	Men—day labor.	Women.	Men under contract.	Men—day labor.	Men under contract.	Men—day labor.						
Oahu	Ewa Plantation	.....	4	....	25	21	.....	6	306	211	38	513	60	.....	.....	.....	.....	.....	.....	1,184	
	Waianae Co	.....	22	....	.....	16	.....	1	79	50	4	228	16	.....	.....	5	4	5	.....	430	
	Waialua Plantation	19	14	....	2	40	.....	12	46	63	15	.....	38	.....	.....	.....	.....	.....	4	253	
	Kahuku Plantation	.....	28	....	.....	11	.....	4	41	97	10	152	150	.....	.....	5	6	2	.....	506	
	Laie Plantation	.....	73	35	.....	.....	.....	.....	.....	10	.....	.....	27	.....	.....	.....	.....	.....	.....	145	
	Heeia Agricultural Co., Limited	.....	10	....	.....	.....	.....	.....	37	127	6	.....	42	2	.....	.....	.....	.....	.....	224	
	Waimanalo Sugar Co	.....	3	....	.....	6	.....	.....	.....	107	1	.....	62	.....	.....	.....	.....	.....	.....	179	
	Oahu Sugar Co	.....	34	....	.....	57	.....	10	408	35	.....	374	25	.....	.....	.....	.....	.....	.....	943	
																					3,864
Maui	Olowalu Sugar Co	.....	6	....	.....	.....	.....	.....	90	15	9	24	2	.....	.....	.....	.....	1	1	148	
	Pioneer Mill Co	21	39	....	7	7	.....	.....	195	123	31	311	4	25	9	.....	.....	10	.....	.782	
	Wailuku Sugar Co	104	170	....	12	68	5	7	75	136	15	40	36	2	.....	.....	.....	.....	.....	670	
	Hawaiian Commercial and Sugar Co.	.....	80	....	.....	44	3	.....	338	49	16	551	54	.....	.....	23	2	9	22	1,191	
	Paia Plantation	.....	30	....	21	86	29	19	40	107	18	57	81	.....	.....	4	8	1	24	525	
	Haiku Sugar Co	.....	40	....	17	83	15	20	110	71	11	73	52	.....	.....	10	7	.....	3	512	
	Hana Plantation	.....	10	....	.....	12	4	6	75	90	15	93	70	.....	.....	10	4	.....	3	392	
	Hamoa Plantation	.....	24	....	.....	16	1	8	101	32	3	80	1	.....	.....	.....	.....	6	8	280	
	Kipahulu Sugar Co	.....	10	....	3	2	.....	1	236	.....	30	.....	.....	.....	.....	.....	.....	.....	.....	282	
																					4,782
Hawaii	Paauhau Plantation	.....	1	....	15	19	.....	1	213	37	70	171	3	.....	.....	.....	.....	.....	.....	530	
	Hamakua Plantation	.....	8	....	.....	42	.....	3	130	44	.....	147	3	.....	.....	3	6	4	2	392	
	Kukaiau Mill Co	.....	.....	....	.....	4	.....	.....	.....	20	.....	.....	3	.....	.....	.....	.....	.....	.....	27	
	Kukaiau Plantation Co	7	.....	....	3	8	.....	.....	62	25	.....	49	15	.....	.....	.....	.....	.....	5	174	
	Ookala Sugar Co	.....	4	....	.....	16	.....	2	166	31	26	63	38	.....	.....	4	4	2	1	357	
	Laupahoehoe Sugar Co	4	2	....	7	8	2	3	157	58	51	239	4	3	.....	2	12	3	.....	555	
	Hakalau Plantation Co	.....	9	....	10	7	.....	.....	207	248	19	195	9	.....	2	2	11	2	3	724	
	Honomu Sugar Co	.....	3	....	11	26	.....	3	117	125	.....	75	.....	.....	.....	.....	7	3	12	382	
	Pepeekeo Sugar Co	.....	20	....	11	18	1	5	178	137	20	145	45	.....	6	10	4	.....	.....	600	
	Onomea Sugar Co	.....	30	....	23	173	.....	47	183	396	34	146	16	.....	.....	4	5	22	5	1,084	
	Hilo Sugar Co	.....	3	....	10	75	.....	29	216	100	17	269	5	.....	.....	7	12	1	1	745	
	Waiakea Mill Co	.....	4	....	21	60	3	20	254	236	23	130	10	.....	.....	2	15	.....	.....	778	
	Hawaiian Agricultural Co	15	17	....	3	29	.....	4	106	82	8	139	13	1	1	.....	2	.....	8	428	
	Hutchinson Sugar Plantation Co	30	45	....	16	26	.....	4	199	74	12	186	116	.....	.....	10	6	6	22	752	
	Hawi Mill and Plantation	21	12	....	9	16	.....	3	40	31	9	31	.....	.....	.....	.....	.....	.....	.....	172	
	Beecroft Plantation	11	8	....	1	1	.....	.....	15	5	5	.....	.....	4	2	.....	.....	.....	1	53	
	Union Mill Co	19	15	....	.....	7	.....	2	58	26	16	28	13	.....	1	.....	.....	.....	.....	185	
	Kohala Sugar Co	20	10	....	26	21	.....	.....	80	21	.....	96	35	.....	.....	.....	.....	.....	.....	309	

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Table showing location, number, and nationality of all laborers on Hawaiian sugar plantations December 31, 1897—Continued.

Island.	Name of plantation.	Hawaii.			Portuguese.				Japanese.			Chinese,		South Sea Islanders.		Americans.	British.	Germans.	Other nationalities.	Total.	Aggregate.
		Men under contract.	Men—day labor.	Women.	Men under contract.	Men—day labor.	Women.	Minors.	Men under contract.	Men—day labor.	Women.	Men under contract.	Men—day labor.	Men under contract.	Men—day labor.						
Hawaii	Dr. J. Wight, Kohala	9	6	....	3	22	.....	3	46	14	5	14	.....	.....	.....	.....	.....	.....	.....	122	
	Niulii Mill	.....	54	....	.....	2	.....	.....	61	43	8	.....	64	.....	.....	.....	.....	.....	.....	232	
	Pacific Sugar Mill	.....	12	....	8	9	.....	1	144	46	2	176	2	.....	.....	.....	6	4	2	412	
	Honokaa Sugar Co	.....	26	....	12	21	6	11	180	41	44	300	2	.....	.....	10	10	.....	4	667	
																					9,680
Kauai	Kilauea Sugar Co	.....	32	....	.....	61	8	12	170	144	7	86	129	.....	.....	.....	.....	1	.....	650	
	Makee Sugar Co	.....	77	....	.....	77	9	20	73	540	14	186	156	.....	.....	15	1	5	.....	1,173	
	Hanamaulu Sugar Plantation	4	17	....	9	63	20	16	107	104	11	21	51	.....	.....	.....	.....	.....	.....	423	
	Lihue Plantation Co	8	24	....	16	27	.....	6	284	191	22	144	9	.....	.....	.....	.....	107	.....	838	
	Koloa Sugar Co	7	8	....	10	10	.....	2	261	64	20	288	.....	9	.....	.....	.....	9	.....	688	
	Eleele Plantation	10	16	....	1	22	.....	3	17	46	6	.....	.....	4	5	1	1	5	.....	137	
	Hawaiian Sugar Co	.....	11	....	30	42	2	12	178	337	28	395	127	.....	.....	5	23	13	2	1,205	
	Gay & Robinson	25	.....	....	.....	30	.....	.....	.....	20	.....	.....	.....	.....	.....	.....	.....	.....	.....	75	
	J. K. Smith & Co., Koloa	.....	4	....	.....	14	.....	3	.....	25	.....	.....	2	.....	2	.....	.....	.....	1	51	
	Waimea Sugar Co	.....	.....	....	3	5	.....	.....	32	36	4	.....	14	.....	.....	.....	.....	.....	.....	94	
	Kekaha Sugar Co	.....	5	....	3	2	.....	.....	70	75	15	20	.....	.....	3	.....	.....	9	5	207	
	Meier & Kruse	.....	1	....	.....	5	.....	.....	47	52	.....	90	.....	.....	.....	.....	.....	.....	6	201	
	H. P. Faye & Co	.....	2	....	.....	4	.....	2	76	66	12	73	1	.....	.....	1	.....	.....	4	241	
	Hanamaulu Mill	.....	.....	....	.....	7	.....	3	25	37	5	.....	6	.....	.....	.....	.....	7	.....	90	
	Grove Farm	.....	45	....	.....	.....	.....	.....	.....	90	14	.....	105	.....	.....	.....	.....	.....	.....	254	
																					6,327
	Total	334	1,128	35	348	1,448	108	314	6,329	4,990	749	6,398	1,716	50	31	133	156	237	149	24,653	24,653

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The total number of laborers on all Hawaiian sugar plantations December 31, 1897, was 24,653. From January 1 to August 12, 1898, the excess of arrivals over departures has been 2,195, which makes the grand total of laborers on August 12, 1898, 26,848.

These laborers are divided, as indicated, between the Japanese, Chinese, Portuguese, Hawaiians, South Sea Islanders, and a very small number from other nationalities. They are distributed in the order above indicated. By the terms of the contracts made for Chinese laborers all must return to their own country at the expiration of their terms of service, if not reengaged.

They can not remain and engage in competition with artisans or merchants. The whole matter is under the close inspection of the bureau of immigration, which maintains a rigid compliance with the law as to service, etc.

The yield of sugar annually upon the Hawaiian Islands has steadily increased from 25,000,000 pounds in 1875 to 172,000,000 pounds in 1885, 300,000,000 pounds in 1895, and 500,000,000 pounds (approximately) in 1897.

The value of the sugar produced in the twenty-three years, beginning with 1875, has reached the enormous total of $180,000,000. This vast production by an average population of less than 80,000 persons gives a sufficient explanation, from the sugar crop alone, for the real and apparent prosperity of the inhabitants.

The census of 1896 showed that the number of males and females of Hawaiian or part Hawaiian birth was about equal, while, of the imported Asiatic laborers, the males numbered nearly six times as many as the females. Taking the entire population in 1896, native and foreign—viz, males, 72,517; females, 36,503—it will be seen that there are twice as many males as females. This fact itself is most significant, as showing that two-thirds of the population is of the male or producing class, indicating a constant increase of wealth to the country by their labor.

The growth of almost all agricultural products found profitable in Hawaii has also been demonstrated to be profitable and successful in other countries where white labor is employed. The production of coffee and rice, it is claimed, is also as perfectly feasible with white or native labor as by imported Asiatic labor. The producing classes of the United States are anxious to have the privilege of making investments and homes in these islands when the conditions which prohibit such investments shall have been obliterated. Give to the American citizen laborer a fair show and let him then take care of himself.

We should here refer to the Statutes of the United States, chapter 164, approved February 26, 1885, prohibiting the importation of alien contract laborers into this country.

Section 1 of this act provides that it shall be unlawful

for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation or in any way assist or encourage the importation or immigration of any alien or aliens, any foreigner or foreigners, into the United States, its Territories, or District of Columbia, under contract or agreement to perform labor or service of any kind.

SEC. 2. That all contracts or agreements, expressed or implied, parol or special, which may hereafter be made by and between any person, company, partnership, or corporation, and any foreigner or foreigners, alien or aliens, to perform labor or service or having reference to the performance of labor or service, by any person in the United States, its Territories, or the District of Columbia, previous to the migration or importation of the person or persons, whose labor or service is contracted for, into the United States, shall be utterly void and of no effect.

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Under a succeeding section, a penalty forfeiting $1,000 for each offense is imposed, and the master of any vessel who shall knowingly bring any laborer, mechanic, or artisan into the United States, shall be punished by fine and imprisonment. There are also other laws of the United States which prohibit the importation into this country of Asiatic cooly laborers, with appropriate penalties of fine and imprisonment.

The policy of the United States in regard to the introduction of alien labor which might compete with the wages of American laborers in any of the avocations of life, except those where skilled labor is required, is very clear and emphatic.

The committee is therefore of the opinion that the enforcement of the present United States laws regarding imported laborers, with the application of the American policy of fostering the interests of the individual citizens instead of promoting undue accumulations of corporate capital, or the extension of corporate powers in the control of large tracts of land, and with such other legislation, either territorial or national, as experience and good judgment may have indicated, so as to make the whole of the Territory accessible by good roads and the arid lands available for settlement by means of irrigation, the whole country may then become a desirable place for the development of American citizenship.

S. M. CULLOM.
JNO. T. MORGAN.
SANFORD B. DOLE.

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REPORT OF THE COMMITTEE ON THE POSTAL SERVICE.

The Hawaiian postal system is, in its general character, based upon and modeled after the methods long established in the United States. The special details of operation, required by special conditions upon the islands, can be readily provided for by inconsiderable modifications of the existing regulations of the United States Post-Office Department in their application there.

The 111 officers and employees in the Hawaiian postal service are now appointed by the Postmaster-General. By the laws and regulations of the United States they would be classified and appointed, a part by the President and a part by the Postmaster-General.

The receipts of the Hawaiian postal bureau for 1897 were $73,529.99 and the disbursements $66,659.37, showing a net profit of $6,870.62.

The following statement will show this in more detail:

Hawaiian postal bureau for year 1897.

REVENUE AND RECEIPTS.

Due from island offices January 1	$44.00	
Stamp sales	56,799.20	
Box rents	4,749.79	
Island box rents	950.25	
General postage	879.17	
Tax letters	818.24	
Money-order fees	9,496.36	
	73,737.01	
Less stamp exchange	207.02	
		$73,529.99

DISBURSEMENTS.

Postmaster-general and clerks	21,492.50	
Pay of postmaster	17,284.00	
Pay of mail carriage	16,382.50	
Incidentals	9,766.51	
Special mail carriage	1,733.86	
		66,659.37
Net gain		6,870.62

With the adoption and application of the United States postal laws there may not be so favorable a financial showing in future, as the rates on printed matter, far below cost to the Government, provided by our laws will at once reduce the Hawaiian postal revenues, and there would be a falling off for ocean postage to the United States.

The interisland mails are now carried free of charge by the lines of interisland steamers in compliance with a provision in their licenses requiring the performance of this work.

Statements are hereto appended of the post-offices, postmasters and other employees, the salaries paid, bonds required, sales of stamps, and box rents; also a communication from Hon. S. M. Damon, minister of finance, pointing out the advantages of the continuance of the present parcels-post system, by which the Hawaiian rates now are to the United States, per pound, 12 cents; to Canada, 20 cents; to the United Kingdom and Australia, 25 cents.

R. R. HITT.
W. F. FREAR.

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Salaries, etc., of post-office employees, Honolulu post-office.

Rank.	Salary per month.	Bond.
Postmaster	$250.00	
Deputy postmaster and secretary	166.66	$3,000.00
Superintendent, money-order	166.66	3,000.00
Superintendent savings bank	166.66	3,000.00
Clerks.		
General delivery	150.00	3,000.00
Registry department	125.00	500.00
Parcel post	100.00	
Mail dispatcher	100.00	
Clerk, savings bank	100.00	
Assistant, postal savings bank	30.00	
Clerk, money order	100.00	
Clerk, money order	$75.00	
Clerk, general delivery	75.00	
Clerk, Japanese delivery	70.00	
Clerk, Portuguese delivery	70.00	
Clerk, Chinese delivery	70.00	
Clerk	50.00	
Do	50.00	
Do	50.00	
Do	50.00	
Clerk, ladies' window	45.00	
Clerk	45.00	
Do	40.00	
Do	20.00	
Janitor	20.00	
Total	1,435.00	

Salaries, etc., of postmasters.

Location.	Salary per month.	Bond.
HAWAII.		
Hilo	$100.00	$4,000.00
Hilo, first assistant	50.00	
Hilo, second assistant	25.00	
Olaa	10.00	
Kalapana	5.00	
Kohala	75.00	1,500.00
Mahukona	20.00	500.00
Waimea	20.00	1,500.00
Kawaihae	7.50	
Waiohinu	25.00	1,000.00
Paauilo	20.00	2,000.00
Kealakekua	20.00	1,000.00
Napoopoo	7.50	
Pahala	20.00	1,000.00
Punaluu	5.00	
Honokaa	35.00	2,500.00
Laupahoehoe	20.00	2,000.00
Kukuihaele	20.00	2,000.00
Waipio	5.00	
Ookala	15.00	1,000.00
Kailua	15.00	1,000.00
Hookena	20.00	1,000.00
Keauhou	7.50	
Hoopuloa	5.00	
Naalehu	20.00	2,000.00
Hilea	5.00	
Pohoiki	10.00	500.00
Hakalau	10.00	500.00
Honuapo	10.00	
Honomu	10.00	
Papaikou	10.00	
Holualoa	10.00	
MAUI.		
Wailuku	75.00	4,000.00
Wailuku, assistant	25.00	
Kahului	40.00	1,500.00
Paia	35.00	2,000.00
Peahi	5.00	
Huelo	5.00	
Keanae	5.00	
Makawao	20.00	1,000.00
Waiakoa	5.00	
Keokea	5.00	
Lahaina	75.00	1,000.00
Honokawai	5.00	
Honokahau	5.00	
Hamakuapoko	20.00	1,000.00
Pauwela	5.00	
Hana	25.00	1,500.00
MAUI—continued.		
Kaupo	$5.00	
Spreckelsville	20.00	$1,000.00
Kipahulu	15.00	1,500.00
Hamoa	15.00	1,000.00
Ulupalakua	7.50	
Makena	7.50	
Waihee		
Kihei	3.33	
KAUAI.		
Lihue	60.00	2,000.00
Koloa	25.00	2,000,00
Kilauea	20.00	500.00
Waimea	20.00	2,000.00
Kealia	20.00	2,000.00
Hanalei	25.00	1,000.00
Makaweli	25.00	2,000.00
Kekaha	15.00	1,500.00
Mana	20.00	500.00
Hanapepe	15.00	
OAHU.		
Waialua	15.00	500.00
Waianae	20.00	500.00
Honouliuli	20.00	500.00
Kahuku	15.00	500.00
Laie	5.00	
Ewa	5.00	
Waikane	5.00	
Kaneohe	5.00	
Heeia	15.00	500.00
Punaluu	5.00	
Waipahu	20.00	500.00
Peninsula	5.00	
Waialua Plantation		
Waimanalo Plantation		
MOLOKAI.		
Kaunakakai	30.00	500.00
Kaunakakai, assistant, leper settlement	10.00	
Kamalo	15.00	500.00
Pukoo	5.00	
LANAI.		
Lanai	5.00	

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List of post-offices showing amount of stamp sales for twelve months ending June 30, 1898.

Post-office.	Salaries.	Stamp sales.
HAWAII.		
Hilo	$2,100.00	$4,563.50
Honokaa	420.00	814.96
Hookena	240.00	314.00
Hakalau	120.00	365.00
Honomu	120.00	213.00
Holualoa	120.00	361.00
Kohala	900.00	1,279.50
Kealakekua	240.00	411.50
Kukuihaele	240.00	314.50
Kailua	180.00	692.50
Keauhou	90.00	67.00
Laupahoehoe	240.00	438.00
Mahukona	240.00	40.00
Naalehu	240.00	430.00
Ookala	180.00	180.00
Paauilo	240.00	489.50
Pahala	240.00	314.00
Pohoiki	120.00	74.25
Waimea	240.00	152.50
Waiohinu	300.00	86.00
Hoopuloa	60.00	40.00
Total		11,640.71
MAUI.		
Hamakuapoko	240.00	458.00
Hamoa	180.00	263.50
Kahului	480.00	607.00
Kipahulu	180.00	265.00
Lahaina	900.00	940.75
Makena	90.00	63.50
Makawao	240.00	357.60
Paia	420.00	463.50
Spreckelsville	240.00	468.00
Ulapalakua	90.00	24.50
Wailuku	1,200.00	1,137.60
Hana	300.00	389.25
Total		5,438.20

Post-office.	Salaries.	Stamp sales.
KAUAI.		
Hanapepe	$180.00	$32.75
Hanalei	300.00	156.50
Kealia	240.00	722.00
Kekaha	180.00	349.50
Kilauea	240.00	479.60
Koloa	300.00	624.50
Lihue	720.00	1,297.00
Mana	240.00	141.00
Makaweli	300.00	672.00
Waimea	240.00	594.50
Total		5,069.35
OAHU.		
Honolulu	17,220.00	34,515.96
Honouliuli	240.00	438.25
Ewa	60.00	1.00
Heeia	180.00	120.00
Kahuku	180.00	195.50
Laie	60.00	60.00
Waialua	180.00	56.50
Waianae	240.00	216.00
Waipahu	240.00	289.30
Waimanalo		79.60
Total		35,972.11
MOLOKAI.		
Kaunakakai	480.00	158.50
Kamalo	180.00	149.90
Total		308.40
"Paradise of Pacific"		193.15
Stamp exchange		2.32
Total		58,624.24

Statement showing Hawaiian postal revenue from Honolulu and island offices for twelve months ending June 30, 1898.

Month.	Box rents.			Sale of stamps.		
	Honolulu.	Island offices.	Total.	Honolulu.	Island offices.	Total.
1897.						
June	$189.04	$56.25	$245.29	$2,840.75	$1,291.93	$4,132.68
July	809.10	128.25	937.35	2,658.29	1,770.30	4,428.59
August	133.04	150.00	283.04	2,637.71	1,745.00	4,382.71
September	252.54	84.75	337.29	2,709.22	2,175.86	4,885.08
October	830.05	67.25	897.30	2,925.90	1,697.89	4,623.79
November	246.58	93.00	339.58	2,849.94	2,180.63	5,030.57
December	131.73	101.00	232.73	3,489.88	2,266.60	5,756.48
1898.						
January	780.11		780.11	3,031.27	2,438.30	5,469.57
February	129.73	123.84	253.57	2,771.61	2,253.25	5,024.86
March	107.28	58.44	165.72	3,432.42	1,751.67	5,184.09
April	1,004.98	52.00	1,056.98	2,757.43	2,537.65	5,295.08
May	487.48		487.48	2,411.54	1,999.20	4,410.74
Total	5,101.66	914.78	6,016.44	34,515.96	24,108.28	58,624.24

RECAPITULATION.

Total Honolulu box rents	$5,161.66	
Total island offices box rents	914.78	
		$6,016.44
Total Honolulu stamp sales	34,515.96	
Total island offices stamp sales	24,108.28	
		58,624.24
Total revenue		**64,640.68**

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HONOLULU, HAWAIIAN ISLANDS, *September 22, 1898.*

Hon. SHELBY M. CULLOM,
Chairman Hawaiian Commission.

SIR: In your deliberations with reference to the changes incidental to the transfer of the Hawaiian postal bureau to the Postal Department of the United States, I desire to draw your attention to the parcels-post system with foreign countries as now working to such an advantage and to the great accommodation of the people in this country. The parcels-post system with the United States has been in operation for a number of years, and the benefits derived from it have been mutual. During the past biennial period this country has received 12,039 parcels from the United States. In the proposed transfer this part of the system would not be changed. It is to the foreign department that I especially desire to call your attention. There is now a convention between this country and Canada that gives us the privilege of receiving and sending parcels to the United Kingdom of Great Britain; there is also a convention between New Zealand and this country by which we can send to and receive parcels from all countries with which New Zealand is connected, and by this Hawaii is enabled to send to and receive packages from all parts of Europe, Asia, and Africa. These conventions have been carried into effect since the establishment of the republic, and their growing importance is evidenced by the use which is made of them by the citizens of this country.

During the past two years parcels received from various parts of the world through Canada and New Zealand number 1,836; the duties collected at the post-office on all goods received through all of these agencies, including American, have amounted to a total of $10,999.35.

There is, in addition to this receipt from customs, the postage which has been paid on parcels sent from this country, amounting to $1,228.34, the number of parcels sent being 4,293.

Through this system we are enabled to receive many articles of small bulk, including seeds, scientific instruments, books, medicines, and small lines of merchandise which, under other circumstances, would be prohibited by the expense entailed by sending through the ordinary channels of freighting by sea.

Situated as we are, at so great a distance from the large centers, this method of transporting small parcels has proved a boon to this country and its abrogation would prove a serious loss.

The expense connected with the whole system entails one salaried clerk at the post-office of $100 a month, who is assisted, on the arrival of the mails, by one of the under clerks in the general post-office.

Trusting that the foregoing will meet with your favorable consideration,

I have the honor to be, sir, your obedient servant,

S. M. DAMON,
Minister of Finance.

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REPORT OF COMMITTEE ON THE JUDICIARY.

The Committee on Judiciary submit the following report upon the "elective franchise:"

The question of the elective franchise and of representation in the legislative body is a delicate and most important question, as upon this depends the general character of the local government.

Two classes of qualifications have been relied on chiefly in the past to preserve a fair standard of membership in the legislature. These are the educational and the property qualifications. The educational qualification merely requires members and voters for members of each branch of the Legislature to be able to read, write, and speak the English or Hawaiian language. This qualification has long been required in Hawaii and no objection has been offered to it from any quarter. Practically all the native Hawaiians possess this qualification.

The property qualifications are more restrictive, and this subcommittee, while believing that the time will come when these can be removed entirely, are of the opinion that for the present they should be retained to some extent. The property qualifications should not, however, be increased. They might perhaps with safety be reduced. Conditions in this respect in Hawaii differ from those in the United States. The people of Hawaii have always been accustomed to restrictions in the matter of representation, especially in the upper branch of the Legislature. A review of the past will show this clearly, and will show also that the recommendations of the commission are decidedly in the direction of extension rather than of restriction of the privilege of representation.

Under the present constitution of Hawaii members of the lower branch of the legislative body are required to own property valued at not less than $1,000, or to have an annual income of not less than $600. It is recommended that these figures be now reduced to $500 and $250, respectively.

Under the present constitution members of the upper house are required to own property valued at $3,000, or to have an annual income of $1,200. It is now recommended that these figures be reduced to $2,000 and $1,000, respectively.

These restrictions upon membership in the two houses are good as far as they go, and yet they are not as effective as might at first appear, for there are always some men of every class who possess these qualifications. The only effective way to obtain a fairly conservative legislature under conditions such as exist at present in Hawaii, is to require proper qualifications of the voters themselves.

For many years, under the monarchy, voters for members of the lower house were required to own property to the extent of $150, or a leasehold on which the annual rent was at least $25, or to have an annual income of $75. These restrictions were finally removed under the monarchy. There has been no property qualification whatever for voters for members of the lower house under the Republic, and it is recommended that there shall be none in the future.

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As to the upper house, the people were for many years not permitted to vote at all for its members. At first its members were appointed by the King, and membership was hereditary. Afterwards they were appointed for life. It was not until 1887, under the Monarchy, that they were elected by the people, and then the voters were required to own property, real or personal, valued at $3,000, or to have an annual income of $600. Under the Republic the amount of real property required was reduced to $1,500, the amount of personal property remaining at $3,000, and the annual income at $600. It is now proposed to remove the personal property qualification altogether, to reduce the real property qualification to $1,000, and to allow the income qualification to remain at $600. This seems to be as great a reduction as can safely be made at the present time. This is evident from the history of the past, especially during the last years of the Monarchy, when the property qualifications were greater than it is now proposed to make them.

The qualifications proposed are more liberal than have ever existed before in Hawaii, and under them a large portion of the native Hawaiians can vote for members of the upper house and practically all of them for members of the lower house. The suffrage has been extended in the past in Hawaii by degrees. It is believed to be wisest to continue this process of growth. To remove the property qualifications gradually is probably the quickest way to obtain their entire removal ultimately. To sweep them all away at the present time might prove so disastrous as to produce a reaction, by which the franchise might be restricted much more than it is at present, if not taken away altogether. The two houses sit separately, and by requiring a property qualification for voters for the upper house and no such qualification for voters for the lower house, all classes are fairly represented and each class may act as a check upon the other, since no bill can be passed without the concurrence of both houses. To materially reduce the qualifications below what it is now proposed to make them would be to practically turn the legislature over to the masses, a large portion of whom have not yet fully learned the meaning of representative government, and to practically deprive the more conservative elements and property owners of effective representation.

Heretofore the two houses have been equal in membership, each containing fifteen members. It is now proposed to double the membership of the lower house. This will increase the representation of the masses and at the same time give the lower house greater protection from outside influences.

JNO. T. MORGAN.
W. F. FREAR.

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APPENDIX.

REPORT OF COMMITTEE ON CORPORATIONS.

The body of Hawaiian law in relation to the creation and control of corporations, domestic and foreign, and of joint-stock companies, while based upon the principles and methods followed in the States, is very liberal, and contains provisions which have grown out of the conditions surrounding enterprises undertaken in these islands. In regard to the personal liability of stockholders in corporations and joint-stock companies, there is a narrow limit of liability. "No stockholder shall be liable for the debts of the corporation beyond the amount of what may be due on the stock or shares held or owned by him." (Secs. 2019 and 2035, Civil Code). In regard to bank corporations the law makes every stockholder individually and personally liable for such portions of the bank's debts and liabilities as the amount of stock or shares owned by him bears to the whole of the subscribed capital stock or shares of the corporation, and for a like proportion only of each debt or claim against the corporation (sec. 2057). "No charter shall be granted any company whose capital stock is less than $200,000." (Sec. 2052).

There has been a rapid growth of corporations in almost every form of industry upon the islands, in one feature far out of proportion to what is seen in the States, viz, corporate companies carrying on farming, which, in our country, is generally carried on by individuals. Sugar plantations on these islands are nearly all owned by corporations. The sugar industry is by far the largest single interest in value and in profit.

The fact that the sugar plantations are almost wholly conducted by companies is partly owing to the fact that large capital is required at the very beginning, and the laws make possible the union of small investments without great liability. There has been an element of special risk, too, in the industry. Investors always bore in mind that the prosperity of the whole industry depended upon the reciprocity treaty with the United States, the benefits of which have actually been changed by legislation in the United States, and reciprocity might have been repealed altogether with a change of policy or of party control in the United States. Men did not like to risk all they had in one venture, but would take shares in companies. With the removal of this element of uncertainty, now that comparative stability of government is assured by annexation, that element of uncertainty will disappear, and with it the tendency to put every enterprise into the form of a corporation will diminish. But the large capital necessary to procure the land, buy the machinery of irrigation and the sugar mills, and meet the large expenses of cultivating implements, and the long pay roll of the laborers, all of which must be

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advanced long before any return begins, will probably continue, though in a less degree than heretofore, to induce people to prefer to invest in sugar-planting companies, rather than to attempt a plantation single handed. This will doubtless be the course even of the few persons who may have the capital to make the attempt.

Lists and descriptions of the corporations—mercantile, agricultural, and manufacturing, domestic and foreign—now existing and operating in the Hawaiian Islands, and of church, charitable, and literary associations, are hereto appended.

R. R. HITT.
W. F. FREAR.

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Corporations chartered for mercantile, agricultural, and manufacturing purposes, as shown by the corporation records of the interior department, August 12, 1898.

HAWAIIAN CORPORATIONS.

Name of corporation.	Object.	Date of charter.	Term of years.	Original capital stock.	Number of shares.	Par value.	Privileged increase.	Amendments.		
								Present capital stock.	Present number of shares.	Par value.
Haiku Sugar Co	Sugar cane planters	Nov. 20, 1885	50	$50,000	50	$1,000	$750,000	$750,000	7,500	$100
Kohala Sugar Co	do	Feb. 3, 1863[1]	25	40,000	80	500	500,000	480,000	960	500
Princeville Plantation Co	do	Sept. 15, 1875[2]	20	120,000	120	1,000	250,000	240,000	2,400	100
Wailuku Sugar Co	do	do.[2]	20	90,000	180	500	750,000	700,000	7,000	100
Hawaiian Agricultural Co	do	Dec. 22, 1876	30	120,000	240	500	500,000	500,000	5,000	100
Honolulu Iron Works Co	Iron founders	do.[3]	20	100,000	200	500	200,000	200,000	2,000	100
Kapiolani Park Association	Park association	do	30	5,000			50,000			
Makee Sugar Co	Sugar cane planters	Apr. 30, 1877	30	160,000	1,600	100	2,500,000	500,000	5,000	100
Hawaiian Telegraph Co	Telegraph operators	Mar. 4, 1878	30	3,000			150,000			
Waimanalo Sugar Co	Sugar cane planters	Apr. 15, 1878	50	80,000	80	1,000	500,000	252,000	2,520	100
Honokaa Sugar Co	do	May 8, 1878[4]	15	200,000	100	2,000	1,000,000	1,000,000	10,000	100
Koloa Sugar Co	do	Sept. 6, 1878	50	200,000	200	1,000	500,000	300,000	3,000	100
Ookala Sugar Co	do	Mar. 4, 1879	30	100,000	100	1,000	750,000	500,000	5,000	100
Pacific Sugar Co	do	Aug. 19, 1879	50	100,000	200	500	750,000	300,000	3,000	100
Kilauea Sugar Co	do	Jan. 31, 1880	50	300,000	300	1,000	500,000			
Kauai Telephone Co	Telephone and telegraph operators	Oct. 2, 1880	50	1,000	100	10	50,000	20,000	2,000	100
Waianae Co	Sugar cane planters	Oct. 15, 1880	50	170,000	1,700	100	300,000	255,000	2,550	100
Hawaiian Bell Telephone Co	Telephone and telegraph operators	Dec. 30, 1880	50	10,000	1,000	10	100,000	50,000	5,000	10
Union Mill Co	Sugar cane planters	Mar. 30, 1881	50	160,000	160	1,000	200,000			
Olowalu Co	do	May 5, 1881	50	150,000	1,500	100	300,000			
Kahului Railroad Co	Railroad operators	July 1, 1881	50	75,000	150	500	500,000	150,000	1,500	100
Hilo and Hawaii Telephone and Telegraph Co.	Telephone and telegraph operators	Mar. 20, 1882	50							
Onomea Sugar Co	Sugar cane planters	Oct. 20, 1882	50	225,000	22,500	10	500,000	500,000	5,000	100
C. Brewer & Co	General commission merchants and sugar factors.	Feb. 7, 1883	50	500,000	5,000	100	1,000,000	600,000	6,000	100
Reciprocity Sugar Co	Sugar cane planters	do	50	60,000	600	100	500,000	250,000	2,500	100
Inter-Island Steam Navigation Co	Shipping	do	50	300,000	3,000	100	500,000	500,000	5,000	100
Paia Plantation	Sugar cane planters	June 19, 1883	50	750,000	7,500	100	1,500,000			
Hamakua Mill Co	do	do	50	240,000	2,400	100	500,000	500,000	5,000	100
Laupahoehoe Sugar Co	do	do	50	600,000	6,000	100	1,000,000	300,000	3,000	100
E. O. Hall & Son	Hardware and general merchants	July 13, 1883	50	200,000	2,000	100	500,000			
Honomu Sugar Co	Sugar cane planters	Aug. 10, 1883	50	200,000	2,000	100	500,000	300,000	3,000	100
Mutual Telephone Co	Telephone and telegraph operators	Aug. 16, 1883	50	30,000	3,000	10	150,000	150,000	15,000	10

[1] Renewed for 50 years from February 3, 1888.
[2] Extended to 50 years.
[3] Renewed for 50 years from December 22, 1896.
[4] Renewed for 50 years from May 8, 1893.

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Corporations chartered for mercantile, agricultural, and manufacturing purposes, etc.—Continued.

HAWAIIAN CORPORATIONS—Continued.

Name of corporation.	Object.	Date of charter.	Term of years.	Original capital stock.	Number of shares	Par value.	Privileged increase.	Amendments.		
								Present capital stock.	Present number of shares.	Par value.
Alden Fruit and Taro Co	Taro planters and taro flour manufacturers.	Aug. 27, 1883	50	$50,000	500	$100	$100,000			
Hawaiian Carriage Manufacturing Co.	Carriage builders	Oct. 9, 1883	50	75,000	750	100	150,000	$45,000	450	$100
Humuula Sheep Station Co	Sheep raisers	Oct. 30, 1883	50	100,000	1,000	100	200,000			
Pacific Navigation Co	Shipping	Nov. 14, 1883	50	150,000	1,500	100	300,000			
Wilders Steamship Co	do	do	50	400,000	4,000	100	800,000	500,000	5,000	100
Puuloa Sheep and Stock Ranch Co.	Live-stock breeders	Nov. 15, 1883	50	60,000	600	100	120,000			
Hawaiian Stone Co	Stone quarrying and lime manufacturers.	do	50	10,000	100	100	100,000			
Hawaiian Cable Co	Telegraph cable operators	Jan. 21, 1884	50	200,000	2,000	100	400,000			
Kawailoa Ranch Co	Live-stock raisers	Feb. 25, 1884	50	100,000	1,000	100	200,000			
Woodlawn Dairy and Stock Co	Dairy and live-stock raisers	do	50	42,500	425	100	100,000	100,000	1,000	100
Daily Hawaiian	Printers and publishers	Mar. 20, 1884	50	100,000	10,000	10	200,000			
Waimea Sugar Mill Co	Sugar cane planters	Aug. 19, 1884	50	70,000	700	100	150,000	125,000	1,250	100
Hutchinson Plantation Co	do	Sept. 11, 1884	50	1,000,000	10,000	100	2,000,000			
Hilo Sugar Co	do	do	25	250,000	2,500	100	500,000	500,000	5,000	100
Pacific Hardware Co	Hardware and general merchants	Jan. 31, 1885	50	200,000	2,000	100	500,000			
Union Feed Co	Hay, grain, and feed merchants	Jan. 30, 1885	50	50,000	1,000	50	500,000	75,000	1,500	50
Hawaiian Ramie Co	Planters of ramie and other fibrous plants.	Jan. 31, 1885	50	60,000	600	100	500,000			
Kukaiau Plantation Co	Sugar cane planters	do	50	120,000	1,200	100	240,000			
Press Publishing Co	Printers and publishers	do	50	20,000	800	25	100,000			
Peoples' Ice and Refrigerating Co.	Ice manufacturers	do	50	120,000	1,200	100	300,000	150,000	1,500	100
Hawaiian Gazette Co	Printers and publishers	do	50	30,000	300	100	60,000	40,000	400	100
Pacific Commercial Advertiser	do	Mar. 11, 1885	50	30,000	300	100	60,000			
Mokaenui Sugar Co	Sugar cane planters	Mar. 13, 1885	25	120,000	12,000	10	250,000			
Heeia Agricultural Co	do	Oct. 17, 1885	50	150,000	15,000	100	250,000			
Royal Hawaiian Hotel Co	Hotel keepers	Nov. 19, 1885	20	75,000	1,500	50	200,000			
Waiohinu Agricultural and Grazing Co.	Cattle raisers	Nov. 6, 1886	50	15,000	150	100	60,000			
Kipahulu Sugar Co	Sugar cane planters	Jan. 17, 1887	50	80,000	800	100	200,000			
Kohala Telephone Co	Telephone operators	Feb. 27, 1888	50	10,000	1,000	10	100,000			
Hawaiian Fruit and Taro Co	Taro planters	Sept. 27, 1888	50	30,000	1,500	20	100,000			
Haleakala Ranch Co	Live stock ranchers	Sept. 1, 1888	50	120,000	1,200	100	250,000	220,000	2,200	100
Oahu Railway and Land Co	Railroad operators	Feb. 4, 1889	50	700,000	7,000	100	5,000,000	1,500,000	15,000	100
Hawaiian Hardware Co	Hardware and general merchants	Mar. 30, 1889	50	75,000	750	100	500,000			
Elele Publishing Co	Printers and publishers	Apr. 2, 1889	50	10,000	2,000	5	50,000			
Maui Telephone Co	Telephone operators	Apr. 25, 1889	50	7,000	700	10	25,000	15,000	1,500	10

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Waiakea Mill Co	Sugar cane planters	do	50	300,000	3,000	100	600,000	600,000	6,000	100
Union Ice Co	Ice manufacturers	June 20, 1889	50	30,000	300	100	100,000			
Hamakua and S. Kohala Telephone and Telegraph Co.	Telephone and telegraph operators	do	50	7,560	300	25	30,000			
Pacific Cable Co	Telegraph cable operators	July 3, 1889	50	1,000,000	10,000	100	10,000,000			
Hui Kalepa Hawaii	Taro planters	July 25, 1889	50	15,000	1,500	10	60,000			
Kona Sugar Co	Sugar cane planters	Aug. 24, 1889	50	600,000			1,000,000			
Pepeekeo Sugar Co	do	Oct. 14, 1889	50	750,000	7,500	100	1,500,000			
Hawaiian Sugar Co	do	Oct. 30, 1889	50	2,000,000	20,000	100	5,000,000			
Hawaiian Pacific Cable Co	Telegraph cable operators	Nov. 15, 1889	50	100,000	1,000	100	250,000			
Ewa Plantation Co	Sugar cane planters	Jan. 29, 1890	50	500,000	5,000	100	2,000,000	2,000,000	20,000	100
Kahuku Plantation Co	do	Jan. 30, 1890	50	500,000	5,000	100	2,000,000			
Union Iron Works Co	Iron founders	Mar. 1, 1890	50	50,000	500	100	250,000	150,000	1,500	100
Campbell Marshall Co	Fruit dealers	Mar. 22, 1890	50	100,000	1,000	100	500,000			
Hawaii Land Co	Real estate agents	Apr. 3, 1890	50	10,000	1,000	10	250,000			
Hilo Soda Works Co	Soda manufacturers	May 23, 1890	50	5,000	50	100	10,000			
Honolulu Dairy Co	Ranchers and farmers	do	50	20,000	200	100	100,000			
Pacific Guano and Fertilizer Co	Fertilizer manufacturers	do	50	100,000	1,000	100	500,000	300,000	3,000	100
Pioneer Building and Loan Association.	Real estate agents	June 12, 1890	50	300,000	1,500	200	1,000,000	1,000,000	5,000	200
Hui Kalepa o Pauwela	Dry goods merchants	July 16, 1890	50	1,500	300	5	15,000			
W. G. Irwin & Co	General and commission merchants and sugar factors.	July 24, 1890	50	500,000	5,000	100	1,000,000			
Paauhau Plantation Co	Sugar cane planters	do	50	1,000,000	10,000	100	2,000,000			
Daily Bulletin Publishing Co	Printers and publishers	Sept. 26, 1891	50	15,000	150	100	30,000			
Hawaiian Abstract and Title Co	Title searchers	Dec. 1, 1891	50	10,000	100	100	100,000			
Hawaiian Star Newspaper Ass'n	Printers and publishers	Mar. 25, 1893	50	10,000	1,000	10	50,000			
M. S. Grinbaum & Co	General and commission merchants and sugar factors.	Jan. 31, 1891	50	300,000	3,000	100	1,000,000			
Kona Coffee and Fruit Co	Coffee planters	Feb. 2, 1891	50	25,000	2,500	10	250,000			
Hawaiian Coffee and Tea P	Coffee and tea planters	Feb. 3, 1891	50	60,000	600	100	200,000	80,000	800	100
Kilauea Volcano House Co	Hotel keepers	Mar. 19, 1891	50	50,000	2,000	25	500,000	55,000	2,200	25
Fashion Stable Co	Livery-stable keepers	Apr. 3, 1891	50	40,000	400	100	100,000	60,000	600	100
Hawaii Holomua Publishing Co	Printers and publishers	June 27, 1891	50	2,000	400	5	20,000			
Hawaiian News Co	Stationers and news agents	Aug. 11, 1891	50	25,000	250	100	100,000			
Pearl City Fruit Co	Fruit planters	Aug. 19, 1891	50	25,000	250	100	50,000			
Hobron, Newman & Co	Druggists	Sept. 25, 1891	50	8,000	80	100	100,000	30,000	300	100
Hawaiian Electric Co	Electric lighting	Oct. 13, 1891	50	20,000	200	100	250,000	150,000	1,500	100
Woodlawn Fruit Co	Fruit planters	Oct. 20, 1891	50	30,000	300	100	50,000			
Club Stables Co	Livery-stable keepers	Dec. 4, 1891	50	25,000	250	100	100,000			
Hawaiian Pork Packing Co	Pork butchers and packers	Mar. 12, 1892	50	22,500	225	100	100,000			
Hawaiian Fishing Co	Fishing and dealers in fish	July 18, 1892	50	25,000	250	100	100,000			
Lihue Plantation Co	Sugar-cane planters	Sept. 8, 1892	50	700,000	7,000	100	2,000,000			
Macfarlane & Co	Liquor dealers	Oct. 11, 1892		60,000	600	100	200,000			
Hawaiian Fruit and Packing Co	Fruit planters and packers	Oct. 15, 1892	50	40,000	400	100	200,000			
Kilauea Cyclorama Co	Exhibition	Nov. 10, 1892	50	82,000	820	100	250,000	83,000	830	100
Maui Fisheries Co	Fishing and dealers in fish	Nov. 22, 1892	50	10,000	500	20	50,000			
Honolulu Soap Works Co	Soap manufacturers	Jan. 11, 1893	50	25,000	250	100	50,000			
Kona Coffee Co	Coffee planters	Oct. 30, 1893		50,000	1,000	50				
Maui Land and Railroad Co	Railroad operators	Jan. 2, 1894	50	20,000	800	25	200,000			
Hollister Drug Co	Druggists	Feb. 21, 1894	50	50,000	500	100	100,000			
Tropic Fruit and Fiber Co	Planters of fruit and fibrous plants	May 10, 1894	50	50,000	500	100	100,000			
Hawaiian Exhibition Co	Exhibition	Mar. 9, 1894	50	50,000	500	100	200,000			

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Corporations chartered for mercantile, agricultural, and manufacturing purposes, etc.—Continued.

HAWAIIAN CORPORATIONS—Continued.

Name of corporation.	Object.	Date of charter.	Term of years.	Original capital stock.	Number of shares.	Par value.	Privileged increase.	Amendments.		
								Present capital stock.	Present number of shares.	Par value.
Consolidated Soda Water Works Co.	Soda manufacturers	June 1, 1894	50	$33,000	330	$100	$100,000			
Holomua Publishing Co	Printers and publishers	do	50	8,000	80	100	50,000			
Theo. H. Davies & Co	General commission merchants and sugar factors.	June 29, 1894		900,000	9,000	100	2,000,000			
Estate of S. G. Wilder	Investors in estate funds	Oct. 4, 1894	50	560,000	5,600	100	2,000,000			
S. G. Wilder & Co	General merchants	do	50	50,000	5,000	100	100,000			
Kaneohe Ranch Co	Stock raisers, rice and sugar planters.	Nov. 13, 1894	50	60,000	600	100	1,000,000			
Hilo Electric Light Co	Electric lighting	Dec. 5, 1894	50	10,000	100	100	100,000	$5,000	500	$100
Hawaiian Land and Improvement Co.	Real estate and financial agents	Dec. 10, 1894	50	25,000	250	100	100,000			
Castle & Cooke	General commission merchants and sugar factors.	Dec. 29, 1894	50	600,000	6,000	100	2,000,000			
California Stock and Dairy Co	Stock, dairy, and poultry	Mar. 27, 1895		2,000	20	100	5,000			
Hawaiian Ostrich and Farm Co	Real estate dealers and farmers	Mar. 23, 1895	50	15,000	150	100	100,000			
The Kanekoa Coffee Co	Coffee planters	Mar. 20, 1895	30	20,000	200	100	50,000			
Pacific Fruit Co	Fruit planters	Apr. 29, 1895	50	10,000	100	100				
Kona, Kau Telephone and Telegraph Co.	Telephone and telegraph operators	June 3, 1895	50	12,000	480	25	50,000			
Pioneer Mill Co	Sugar cane planters	June 29, 1895	50	600,000	6,000	100	2,000,000	750,000	7,500	100
Olaa Coffee Co	Coffee planters	July 3, 1895	50	30,000	300	100	100,000			
Hilo Tribune Publishing Co	Printers and publishers	Nov. 13, 1895		1,500	30	50	25,000			
Hilo Portuguese Sugar Mill Co	Sugar cane planters	Nov. 3, 1895	50	30,000	60	500	50,000			
California Feed Co	Hay, grain, and feed merchants	Dec. 13, 1895	50	50,000	500	100	100,000			
Capital Coffee and Commercial Co	Coffee planters	Jan. 20, 1896	50	170,000	1,700	100	250,000			
Pacific Immigration Co	Labor immigration	Mar. 11, 1896	25	70,000	700	100	200,000			
Aloha Coffee Co	Coffee planters	Apr. 2, 1896	50	20,000	1,000	20	50,000			
Lahaina Coffee and Fruit Co	do	Apr. 7, 1896	50	100,000	1,000	100	200,000			
Ponahawai Coffee Co	do	Apr. 23, 1896	50	15,000	150	100	50,000			
Makaha Coffee Co	do	June 5, 1896	50	30,000	300	100	100,000	40,000	400	100
Oahu Lumber and Building Co	Lumber merchants and building contractors.	June 12, 1896	50	50,000	500	100	100,000			
W. C. Peacock & Co	Liquor merchants	July 1, 1896	50	100,000	1,000	100	200,000			
South Kona Coffee Co	Coffee planters	July 21, 1896	50	50,000	500	100	200,000			
Hamoa Plantation Co	Sugar cane planters	Sept. 10, 1896	50	175,000	1,750	100	250,000			
Hawaii Herald Publishing Co	Printers and publishers	Nov. 17, 1896	25	5,000	100	50	50,000			
Hawaii Railway Co	Railway operators	Nov. 23, 1896	50	50,000	100	500	100,000			
Lanai Land and Development Co	Ranchers and sugar cane and coffee planters.	Dec. 13, 1896	50	250,000	2,500	100	500,000			

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Native Sons Co	Grocers	Dec. 28, 1896	50	5,000	200	25	50,000			
Aloha Aina Oiaio Co	Printers and publishers	Dec. 29, 1896	25	3,000	600	5	25,000			
Waterhouse Investment Co	Real estate dealers	do	50	152,000	1,520	100	250,000			
Hui Kalepa Hookuonoono Hawaii	General market dealers	Jan. 27, 1897	25	5,000	5,000	1	50,000			
Enterprise Mill Co	Building contractors	Jan. 30, 1897	50	30,000	300	100	100,000			
Davey Photograph Co	Photographers	Feb. 12, 1897	50	10,000	100	100	25,000			
Hilo Mercantile Co	General merchants	Feb. 23, 1897	50	100,000	1,000	100	250,000			
Pacific Cycle and Manufacturing Co.	Dealers in bicycles	Feb. 24, 1897	50	10,000	200	50	20,000			
Oahu Sugar Co	Sugar cane planters	Mar. 30, 1897	50	1,800,000	18,000	100	5,000,000			
Lihue Ice and Electric Power Co	Ice manufacturers and electric lighting.	May 30, 1897	50	5,000	500	10	10,000			
Liko Lehua Coffee Co	Coffee planters	June 30, 1897	50	10,000	100	100	50,000			
Hawaiian Chinese Kona Coffee Plantation.	do	July 6, 1897	50	20,000	200	100	40,000			
Awini Coffee, Fruit, and Stock Co	do	July 17, 1897	50	8,750	35	250	17,500			
John Ii estate	Investors in real estate	July 20, 1897	50	150,000	1,500	100	500,000			
Club Stables	Livery stable keepers	Oct. 4, 1897	50	15,000	150	100	50,000			
Hart & Co	Confectioners	Oct. 26, 1897	50	30,000	3,000	10	50,000			
Gonsalves & Co	General merchants	Dec. 15, 1897	50	70,000	700	100	150,000			
The Bank of Hawaii	Bankers	Dec. 17, 1897	50	400,000	4,000	100	5,000,000			
The Kohala Klondike Mining Co	Miners	Dec. 21, 1897	50	50,000	50,000	1	1,000,000			
H. Hackfeld & Co	General and commission merchants and sugar factors.	Dec. 24, 1897	50	1,000,000	10,000	100	3,000,000			
Kailua Coffee Co	Coffee planters	Dec. 28, 1897	50	40,000	400	100	100,000			
Koloa Agricultural Co	Ranchers and sugar cane and rice planters.	Jan. 1, 1898	50	60,000	600	100	100,000			
Star Dairy Co	Dairy and live stock raisers	do	50	10,000	1,000	10	50,000			
S. N. Castle Estate	Investors in estate funds	do	50	600,000	6,000	100	2,000,000			
Benson, Smith & Co	Druggists	Jan. 3, 1898	50	35,000	350	100	70,000			
Hawaiian Fiber Co	Planters of fibrous plants	Feb. 2, 1898	50	25,000	250	100	150,000			
Molokai Ranch Co	Ranchers and sugar cane and rice planters.	Feb. 4, 1898	50	168,000	1,680	100	2,000,000			
Hustace & Co	Draymen	do	50	60,000	600	100	150,000			
Chinese Coffee Co	Coffee planters	Feb. 14, 1898	50	25,000	250	100	50,000			
Hilo Drug Co	Druggists	Feb. 19, 1898		10,000	100	100	50,000			
E. Peck & Co	Draymen	Feb. 25, 1898	50	90,000	900	100	150,000			
Bergstrom Music Co	Dealers in musical instruments	Mar. 30, 1898	50	20,000	200	100	50,000			
Oahu Market Co	General market dealers	Apr. 30, 1898	50	50,000	500	100	100,000			
Volcano Stables and Transportation Co.	Carriage builders and stable keepers.	May 5, 1898	50	75,000	750	100	500,000			
W. W. Dimond & Co	Hardware and crockery merchants	May 9, 1898	50	70,000	3,500	20	250,000			
The Paluna Cooperative Co	Grocers	June 18, 1898	50	6,000	240	25	10,000			
Hawaiian Fruit and Plant Co	General farming	July 16, 1898	50	25,000	250	100	50,000			
Kekaha Sugar Co	Sugar-cane planters	do	50	600,000	6,000	100	2,000,000			
Honolulu Steam Laundry Co	Laundrying	July 19, 1898	50	25,000	250	100	100,000			
American Sugar Co	Sugar-cane planters	July 26, 1898	50	1,500,000	15,000	100	5,000,000			
Hawaii Soda Works Co	Soda-water manufacturers	Aug. 1, 1898	50	3,000	30	100	5,000			
Hawaiian Trust and Investment Co.	Safe-deposit and general-business agents.	Aug. 10, 1898	50	30,000	300	100	500,000			
Honolulu Chamber of Commerce	Board of trade	Aug. 25, 1883	50							

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Corporations chartered for mercantile, agricultural, and manufacturing purposes, etc.—Continued.

FOREIGN CORPORATIONS. *a*

Name of corporation.	Object.	Date of charter.	Term of years.	Original capital stock.	Number of shares.	Par value.	Privileged increase.	Amendments.		
								Present capital stock.	Present number of shares.	Par value.
Hawaiian Investment and Agency Co.	Real-estate and general business investors.	Oct. 6, 1880		$500,000	20,000	$25				
Hawaiian Commercial and Sugar Co.	Sugar-cane planters	Apr. 3, 1882	50	10,000,000	100,000	100				
Heeia Sugar Plantation Co	do	June 1, 1882	50	1,000,000	100,000	10				
Hakalau Plantation Co	do	Oct. 19, 1882	50	1,000,000	10,000	100				
Western and Hawaiian Investment Co.	Real-estate and general business investors.	Oct. 2, 1883		500,000	20,000	25	$1,250,000			
Hana Plantation Co	Sugar-cane planters	Nov. 1, 1887	50	300,000	3,000	100				
Hutchinson Sugar Plantation Co	do	May 3, 1889	50	2,500,000	50,000	50				
Maui Railroad and Steamship Co	Shipping and railroad operators	Feb. 14, 1898	50	150,000	1,500	100				
Honolulu Sugar Co	Sugar-cane planters	May 26, 1898	50	900,000	9,000	100				
Yokohama Specie Bank	Bankers	Feb. 28, 1880		6,000,000						
Hawaiian Tramways Co	Street railway	Apr. 12, 1888		650,000	26,000	25				

a Does not include foreign insurance companies, which are not required by law to file certified copies of certificates of incorporation.

Church, Charitable, Literary, and other Incorporated Associations not Classed with Mercantile, Agricultural, and Manufacturing.

Name of corporation.	Translation of Hawaiian and Chinese title.	Date of charter.	Term of years.	Original capital stock.	Number of shares.	Par value.	Privileged increase.	Amendments.		
								Present capital stock.	Present number of shares.	Par value.
Oahu College		May 23, 1853								
Second Foreign Church and Congregation of Honolulu.		Mar. 30, 1853	Perpetual							
First Methodist Episcopal Church		Mar. 5, 1856	do							
The Hawaiian Missionary Society		June 1, 1857								
Trustees of the Protestant Church in South Kohala.		Sept. 4, 1857								

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Excelsior Lodge, No. 1, of the Independent Order of Odd Fellows of the United States of America.		Apr. 28, 1858	Perpetual							
Hawaiian Lodge, No. 21, of Free and Accepted Masons.		Aug. 31, 1858	do							
He Poe Kahuwaiwai no ka Ekalesia Hoole Pope ma Koloa, Kauai.	Trustees of the Protestant Church of Koloa, Kauai.	Mar. 16, 1859	100							
He Poe Kahuwaiwai no ka Ekalesia Hoole Pope ma Waimea, Kauai.	Trustees of the Protestant Church of Waimea, Kauai.	do								
The Queen's Hospital		June 20, 1859	Perpetual							
Oahu Cemetery Association		June 13, 1859	do							
Trustees of the Makawao Foreign Church.		Apr. 20, 1861	do							
Hawaiian Reformed Catholic Church.		Nov. 6, 1862	do							
Wailuku Union Protestant Church		Oct. 10, 1866	do							
First Foreign Church and Society of Hilo.		July 27, 1868	do							
Trustees of the Hilo Boarding School.		do	do							
He Poe Kahuwaiwai no ka Ekalesia Hoole Pope ma Olowalu, Maui.	Trustees of the Protestant Church of Olowalu, Maui.	July 23, 1869	30							
East Maui Female Seminary		Aug. 16, 1869	Perpetual							
Lodge Le Progrés de l'Oceanic, No. 124.		Aug. 18, 1871								
Iolani Lodge, No. 4, Independent Order of Good Templars.		Feb. 14, 1873								
Board of the Hawaiian Evangelical Association.		do								
Ona Kahuwaiwai o ka Ekalesia Hoole Pope ma Waiohinu, Kau.	Trustees of the Protestant Church of Waiohinu, Kau.	do	30							
Ona Kahuwaiwai o ka Ekalesia Hoole Pope ma Wananalua, Hana, Maui.	Trustees of the Protestant Church of Wananalua, Hana, Maui.	do	30							
Na Kahuwaiwai o ka Ekalesia Hoole Pope o Wainee, Lahaina, Maui.	Trustees of the Protestant Church of Wainee, Lahaina, Maui.	do	30							
Ultima Thule Lodge, No. 1, Independent Order of Good Templars.		May 31, 1873								
Ona Kahuwaiwai o ka Ekalesia Hooie Pope ma Kaluaaha, Molokai.	Trustees of the Protestant Church of Kaluaaha, Molokai.	Aug. 12, 1873	30							
Ona Kahu Malama Waiwai o ka Ekalesia Hoole Pope ma Kaumakapili, Honolulu, Oahu.	Trustees of the Protestant Church of Kaumakapili, Honolulu, Oahu.	Nov. 1, 1873	30							
Ona Kahuwaiwai o ka Ekalesia ma Hauula.	Trustees of Hauula Church	Nov. 3, 1873	30							
Na Kahuwaiwai o ka Ekalesia Hawaii Mua o Kilo ame Kona Aha Hui.	Trustee of First Hawaiian Church of Hilo and its Society.	June 26, 1874	Perpetual							

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Church, Charitable, Literary, and other Incorporated Associations not Classed with Mercantile, Agricultural, and Manufacturing—Cont'd.

Name of corporation.	Translation of Hawaiian and Chinese title.	Date of charter.	Term of years.	Original capital stock.	Number of shares.	Par value.	Privileged increase.	Amendments.		
								Present capital stock.	Present number of shares.	Par value.
Ona Kahuwaiwai o ka Ekalesia o Waikapu, Maui.	Trustees of Waikapu Church, Maui.	Aug. 20, 1874	30							
Maui Lodge, No. 223, F. and A. M.		Sept. 3, 1874								
Ka Ahahui Kahu Malama Waiwai o ka Ekalesia o Kawailoa ma Waialua.	Trustees of Kawailoa Church at Waialua.	May 25, 1875	Perpetual							
Wailuku Cemetery Association		Mar. 4, 1876	do							
The Foreign Religion Society of Makawao.		Dec. 30, 1876	do							
You Hawk Jihu Tow Hue		Nov. 13, 1877	do							
Ka Ahahui o ka Ekalesia Hawaii Hoole Pope o Makawao.	Trustees of the Protestant Church of Makawao.	Oct. 21, 1878	50							
The Pacific Club		Mar. 11, 1879	30	$6,000	120	$50	$20,000			
Knights of Jerusalem, Hawaiian Islands.		June 24, 1879								
The Honolulu Library and Reading Rooms Association.		do	Perpetual							
Der Deutsche Verein		July 10, 1879	30	7,000	280	25	15,000			
The Chinese Christian Church of Honolulu.		Oct. 3, 1879	Perpetual							
The Young Men's Christian Association of Honolulu.		Feb. 4, 1882	do							
Kohala Club		do	50	2,500	50	50	5,000			
Ka Ahahui Kahu Malama Waiwai o ka Ekalesia o Waikane, Koolaupoko.	Trustees of Waikane Church, Koolaupoko.	Mar. 20, 1882	Perpetual							
Trustees of the Protestant Church in Kaneohe.		do	50							
The Paia Church of Hamakuapoko, Maui.		Aug. 25, 1882	30							
The Kaiku Church		Oct. 20, 1882	30							
Harmony Lodge, No. 3, Independent Order of Odd Fellows.		Oct. 25, 1883								
Ka Ahahui Kahu Malama Waiwai o ka Ekalesia o Ewa, Oahu.	Trustees of Ewa Church, Oahu	Nov. 14, 1883	Perpetual							
Chün Wa Hui Quor	The United Chinese Society	Aug. 27, 1884	do							
Honokaa Lyceum		Aug. 30, 1884	do							
Bethel Union Church		Jan. 31, 1885	50							

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Deutsche Evangelical Lutherische Gemeinde of Lihue.		Mar. 13, 1885	Perpetual					
Third Franciscan Order		Nov. 8, 1886	do					
The Portuguese Mutual Benefit Society of Hawaii.		Jan. 17, 1887	Perpetual					
Central Union Church		Jan. 26, 1888	do					
German Benevolent Society of Honolulu.		Apr. 23, 1889	do					
Yee King Tong, alias Panoa Chinese Cemetery Association.		May 17, 1889	do					
Lin Yee Chung	Cemetery association	June 7, 1889	do					
Sociedade Portugueza de Santo Antonio Beneficente de Hawaii.		June 19, 1889	50					
Kauai Industrial School		July 29, 1889	Perpetual					
Hawaiian Baseball Association		May 29, 1890	25	5,000	500	10	10,000	
Healani Yacht and Boat Club		Nov. 13, 1894	50	5,000	250	20	10,000	
Kapiolani Home of the Hoolulu and Hoola Lahui Society.		Dec. 15, 1891	50					
Captain Cook Lodge, No. 353, Order of the Sons of St. George.		Dec. 29, 1891	20					
Strangers' Friend Society		Mar. 14, 1892	50					
First Methodist Episcopal Church		June 4, 1895	Perpetual					
Free Kindergarten and Children's Aid Association of the Hawaiian Islands.		Aug. 23, 1895	50					
Hilo Library and Reading Room Association.		Apr. 17, 1896						
Wailuku Church of Wailuku, Maui		May 6, 1896	Perpetual					
Christian Church of Honolulu		Aug. 6, 1896	do					
Wainee Church of Lahaina, Maui		Mar. 23, 1897	do					
First Japanese Methodist Church of Honolulu.		May 31, 1897	do					
See Yup Wei Quan	See Yup Benevolent Society	June 18, 1897						

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REPORT OF THE COMMITTEE ON JUDICIARY.

Hawaii having been hitherto a single independent State, its courts have exercised much of the jurisdiction exercised by both the Federal and State courts in this country. In this respect the Hawaiian courts have resembled somewhat the courts of the Territories of the United States, which, as a rule, have had much Federal jurisdiction, as well as jurisdiction of cases arising under the Territorial laws. It seems very desirable in the case of Hawaii to separate these jurisdictions, leaving all cases arising under the laws of the Territory to the Territorial courts and transferring all jurisdiction of a Federal nature to a district court of the United States to be established for the Territory of Hawaii. This district court should have also the jurisdiction of a circuit court of the United States.

There are many reasons which make this separation of jurisdictions desirable. The foreign shipping already calling at the ports of Hawaii, as well as the shipping from the United States, is very extensive and is rapidly increasing. With the natural growth of commerce on the Pacific, and especially in view of the change in the ownership of the Philippines, the near completion of the Siberian Railway, and the projected Nicaraguan Canal, the shipping that will call at the Hawaiian Islands will undoubtedly increase more rapidly in the future than it has increased in the past. This will give rise to many important admiralty cases in Hawaii, some of which may become matters of international interest.

It is obviously very desirable that jurisdiction over such cases should be exercised by Federal judges. Again, in the event of war, Hawaii may become a center for the trial of prize cases, of which the Federal courts should have exclusive jurisdiction. By making the relations between the territorial courts of Hawaii and the Federal courts, as to appeals, removal of causes, etc., the same as the corresponding relations between the State and Federal courts, all cases of a local nature can be tried and determined finally in the islands, and thus the expense and delay of bringing such cases to the mainland, and possibly to Washington, a distance of 5,000 miles, will be avoided.

Very little change need be made in the organization of the territorial or local judiciary. The organization and procedure of the Hawaiian courts is already very similar to what is found in the United States. This has been the result of a growth of sixty years of constitutional government in Hawaii under American influences. The judiciary department, unlike the executive and legislative departments, has always been free from politics. The people of Hawaii have great confidence in their judiciary, and have always looked to it as the one impregnable bulwark of their liberties. The last two sovereigns under the monarchy, who did so much to lower the standard of the executive and legislative departments, did not dare to encroach materially upon the judiciary department until the final attempt of the Queen, which resulted in the loss of her throne.

The people of Hawaii of all classes, as shown by the memorials presented to the commission, desire the judiciary, as at present organized, to be retained with as little change as possible, with the

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exception that they generally deem it best that there should be a United States district court to take jurisdiction of Federal cases. The one change which it seems desirable to make in the local judiciary is the abolition of the racial and mixed juries. Hitherto in criminal cases foreigners have been tried by juries composed of foreigners, and Hawaiians by juries composed of Hawaiians, and civil cases, if between foreigners, have been tried by foreign juries; if between Hawaiians, by Hawaiian juries; if between foreigners and Hawaiians, by juries composed of an equal number of foreigners and Hawaiians.

It is now proposed to abolish these race and mixed juries and to require instead merely that juries shall be composed of citizens of the United States who understand the English language, without respect to color or blood. As the Hawaiians will become citizens of the United States and as most of them understand the English language, the greater portion of them will be competent to sit on juries. The requirement that they shall understand the English language is designed not to exclude the Hawaiians, but to avoid the expense and delay that would result if all proceedings had to be gone through in both languages through an interpreter.

The Hawaiian judiciary may be briefly described as follows:

There are three sets of courts—a supreme court, superior courts of record, and local courts—corresponding to the three classes of courts usually found elsewhere. They are called the supreme court, the circuit courts (five in number), and the district courts (twenty-nine in number).

The district courts sit without a jury. They have jurisdiction in criminal cases, over misdemeanors, and in civil cases up to $300 except in cases of slander, libel, malicious prosecution, false imprisonment, seduction, breach of promise of marriage, and cases involving title to real estate. The civil jurisdiction is exclusive up to $50 and concurrent with that of the circuit courts from $50 to $300. A general appeal lies in all cases, civil and criminal, to the circuit court, or an appeal solely on points of law may be taken to either the circuit or the supreme court.

The circuit courts sit with a jury, unless jury is waived, for the trial of most original law cases not begun in the district courts and in cases appealed from the district courts. The circuit judges sit without a jury in equity, admiralty, probate, and bankruptcy cases. Part of this jurisdiction will now be turned over to the United States district judge. There has as yet been no fusion of equity and law cases. Equity and law courts, as under the Federal system, are regarded as distinct, although presided over by the same judges. Exceptions lie from the circuit courts in law cases and general appeals in equity cases to the supreme court.

The supreme court consists of a chief justice and two associate justices. It hears appeals, exceptions, and writs of error from the circuit and district courts, and has original jurisdiction of contested-election cases, claims against the government, and the issuance of certain writs, such as habeas corpus, prohibition, mandamus, and certiorari. In case of the absence or disqualification of a justice, his place in any particular case may be filled by a circuit judge or member of the bar.

The chief justice and associate justices are appointed by the President (hereafter the governor), with the advice and consent of the Senate, and hold office, like the federal judges, during good behavior.

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The circuit judges are appointed in the same way and hold office for six years. The district judges are appointed by the President, with the approval of the cabinet (hereafter by the governor alone), and hold office for two years.

The chief justice and associate justices are all of American descent and are graduates of Eastern colleges and law schools. The circuit judges comprise two Americans, one Englishman, one Portuguese, and one Hawaiian. The district judges are mostly Hawaiians, but some of them are Americans and English.

There is a clerk of the judiciary department, with deputies, who are also clerks of the circuit courts. There are also stenographers and interpreters. The executive officers of the courts are a marshal of the Republic (hereafter chief sheriff of the territory), sheriffs of the several circuits, deputy sheriffs of the several districts, and policemen.

The procedure in the various courts is much like that in the United States. The same is true of the laws administered by the courts. The statute law is largely copied from statutes (State or Federal) in the United States, and in the absence of statute law in a given case the common law is followed. American and English cases are cited, as in the United States. The supreme court law library contains over 5,000 volumes of well-selected law books.

There are also special courts for the trial of cases relating to private ways and water rights. These are presided over by "commissioners of private ways and water rights." These courts are of about the grade of district courts, but their jurisdiction is chiefly in the nature of equity jurisdiction. A general appeal lies from these commissioners to the supreme court.

There are two classes of lawyers, namely, those admitted to practice in all the courts and those admitted to practice in the lower courts only. The former are mostly Americans, but include a number of Hawaiians; the latter are mostly Hawaiians.

JNO. T. MORGAN.
W. F. FREAR.

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THE LAWS

OF

HAWAII.

COMPRISING THE CIVIL LAWS AND THE PENAL LAWS COMPILED BY SIDNEY M. BALLOU AND PUBLISHED BY AUTHORITY IN 1897, AND THE SESSION LAWS OF 1898,

MODIFIED IN CONFORMITY WITH THE RECOMMENDATIONS OF THE COMMISSION APPOINTED BY THE PRESIDENT OF THE UNITED STATES TO RECOMMEND TO CONGRESS LEGISLATION CONCERNING THE HAWAIIAN ISLANDS, UNDER THE PROVISIONS OF THE JOINT RESOLUTION OF CONGRESS APPROVED JULY 7, 1898.

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PREFACE.

The first written laws of Hawaii were published in 1823, and the first compilation was published in 1842 in a small volume now known as the "Blue Book." This was followed by the Session Laws of 1843, and by the comprehensive acts to organize the Government, enacted in 1845–1847 and published together. A penal code was enacted 1850. Session Laws were then published yearly until 1859, when the laws, not already embodied in the Penal Code were codified into a "Civil Code," divided into chapters with sections numbered consecutively through the volume. This code was enacted by the legislature.

Following this were the Session Laws, passed every even year from 1860 to 1882, inclusive. In 1869 a new "Penal Code" was published, comprising the portions of the Penal Code of 1850 still in force and the penal statutes enacted subsequently. This code was enacted by the legislature. In 1884 the "Compiled Laws" were published. This comprised the portions of the Civil Code of 1859 still in force and the statutes enacted subsequently and not already included in the Penal Code of 1869. The orignal numbering of the Civil Code was retained and new matter was placed either near similar subjects or at the end of the volume.

After this the following laws were passed: Session Laws of 1884, 1886, 1887, 1888, 1890, 1892; Acts of the Provisional Government (1893), Constitution and Laws of the Republic (1894–1895), Session Laws of 1895–1896. In 1897 all the laws were compiled by Sidney M. Ballou and published by authority in two volumes known as the "Civil Laws" and the "Penal Laws."

The compiled laws of 1884 were taken as the basis of the civil laws, but the parts were rearranged and the sections renumbered, and all laws of a penal nature were transferred to the "penal laws." The basis of the penal laws was the Penal Code of 1869, the chapters of which, so far as still in force, were retained with their original numbering, and new matter was added as new chapters. In this compilation many changes were made in pursuance of general statutes or the provisions of the constitution of the Republic, e. g., the substitution of "Republic" for "Kingdom," "President" for "King," etc. Notes were added at the end of each chapter, with references to the original statutes and to decisions of the supreme court. Following this compilation were the session laws of 1898.

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The present volume comprises the Civil Laws and the Penal Laws compiled and published in 1897 and the Session Laws of 1898, modified in conformity with the recommendations of the commission of five members appointed by the President of the United States to recommend legislation concerning the Hawaiian Islands, under the provisions of the joint resolution of Congress approved July 7, 1898. The original numbering of chapters and sections has been retained. The numbers of those chapters and sections the text of which is omitted are inclosed in brackets. These include the chapters and sections which the commission recommend to be repealed; also those of a temporary nature and no longer in force, and those, especially in the Session Laws of 1898, which were merely amendatory of previous laws, and which have been inserted in place of the laws to which they were amendatory. Many changes have been made in the text, in pursuance of the general recommendations of the commission, e. g., "Republic" has been changed to "Territory" or "Government," "president" to "governor," "minister of finance" to "treasurer," "minister of the interior" to "superintendent of public works," or otherwise, as the case might be, etc. The notes also have been changed to conform to changes in the text. Errors, so far as discovered, in the compilation of 1897 have been corrected. Enacting and approval clauses have been omitted.

The following abbreviations are used:

C. C., for civil code of 1859.
S. L., for session laws.
C. L., for compiled laws of 1884.
P. C., for penal code of 1869.
P. G., for acts of the provisional government, 1893.
L. R., for laws of the Republic.
P. L., for penal laws, 1897.

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[Matter in brackets omitted; recommended by Commission to be repealed.]

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THE CIVIL LAWS OF HAWAII.

[Matter in brackets omitted; recommended by Commission to be repealed.]

TITLE I.

LAWS.

CHAPTER 1.

PROMULGATION OF LAWS.

§ 1. No written law shall be obligatory without being first printed and made public.

[§§ 2–3.]

§ 4. All laws, unless otherwise specially provided, shall take effect on the island of Oahu ten days after the promulgation of the same, and on each of the other islands thirty days after such promulgation; after which no one shall be allowed to allege ignorance of the law as an excuse or justification for a violation thereof.

NOTE TO CHAPTER 1.

§§ 1–4 are C. L. §§ 1–4.

Cases in Hawaiian Reports; Hilo Co. v. Austin, 8 Haw., 278; Re Sovereign, 8 Haw., 607.

CHAPTER 2.

EFFECTS OF LAWS.

§ 5. No law shall have any retrospective operation.

§ 6. The laws are obligatory upon all persons, whether citizens of this Territory or citizens or subjects of any foreign State, while within the limits of this Territory, except so far as exception is made by the laws of nations in respect to ambassadors or others. The property of all such persons, while such property is within the territorial jurisdiction of this Territory is also subject to the laws.

§ 7. Private agreements shall have no effect to contravene any law which concerns public order or good morals. But individuals may, in all cases in which it is not expressly or impliedly prohibited, renounce what the law has established in their favor, when such renunciation does not affect the rights of others and is not contrary to the public good.

§ 8. Whatever is done in contravention of a prohibitory law is void, although the nullity be not formally directed.

NOTE TO CHAPTER 2.

§§ 5–8 are C. L. §§ 5–8.

Cases in Hawaiian Reports: Norton v. Paahana, 3 Haw., 300; Coleman v. Coleman, 5 Haw., 304; Re Mau Nun, 7 Haw., 463; Chong Chum v. Kohala Co., 8 Haw., 430.

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CHAPTER 3.

CONSTRUCTION OF LAWS.

§ 9. The words of a law are generally to be understood in their most known and usual signification, without attending so much to the literal and strictly grammatical construction of the words as to their general or popular use or meaning.

§ 10. Where the words of a law are dubious, their meaning may be sought by examining the context, with which the ambiguous words, phrases, and sentences may be compared, in order to ascertain their true meaning.

§ 11. Laws in *pari materia*, or upon the same subject-matter, must be construed with reference to each other; what is clear in one statute may be called in aid to explain what is doubtful in another.

§ 12. One of the most effectual ways of discovering the true meaning of the law, when its expressions are dubious, is by considering the reason and spirit of it, or the cause which induced the legislature to enact it.

§ 13. When the words of a law are ambiguous, every construction which leads to an absurdity should be rejected.

§ 14. Every word importing the singular number only may extend to and embrace the plural number; and every word importing the plural number only, may be applied and confined to the singular number as well as the plural; and every word importing the masculine gender only, may extend to and include females as well as males.

§ 15. Each of the terms *or* and *and* has the meaning of the other or both, when the subject-matter, sense, and connection require such construction.

§ 16. The word *person*, or words importing persons, for instance, *another*, *others*, *any*, *anyone*, *anybody*, and the like, signify not only persons, but corporations, societies, communities, assemblies, inhabitants of a district, or neighborhood, or persons known or unknown, and the public generally, where it appears, from the subject-matter, the sense, and the connection in which such words are used, that such construction is intended.

§ 17. The word *month* shall be construed to mean a calendar month, unless otherwise expressed; and the word *year*, a calendar year, unless otherwise expressed.

§ 18. The word *oath* shall be construed to include affirmation, when made by one alleging himself to be a member of the Society of Friends.

NOTE TO CHAPTER 3.

§§ 9–13 are C. L. §§ 9–13. §§ 14–18 are C. L. §§ 15–19.
Cases in Hawaiian Reports: Chapin v. Tisdale, 5 Haw., 53; Grieve v. Gulick, 5 Haw., 74; Castle v. Luce, 5 Haw., 322; Lloyd v. Kalama, 8 Haw., 359; Day v. Day, 8 Haw., 720; Defries v. Cartwright, 10 Haw., 249.

CHAPTER 4.

REPEAL OF LAWS.

§ 19. The repeal of any law shall not be construed to revive any other law which has been repealed, unless it be so clearly expressed. Laws may be repealed either entirely or partially by other laws.

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§ 20. The repeal of a law is either express or implied; it is express when it is literally declared by a subsequent law; it is implied when the new law contains provisions contrary to, or irreconcilable with, those of the former law.

§ 21. The repeal of any law shall in no case affect any act done, or any right accruing, accrued, acquired, or established, or any suit or proceeding had or commenced in any civil case, before the time when said repeal shall take effect.

§ 22. No suit or prosecution pending at the time of the repeal of any law, for any offence committed, or for the recovery of any penalty or forfeiture incurred under the law so repealed, shall in any case be affected by such repeal.

NOTE TO CHAPTER 4.

§§ 19-22 are C. L. §§ 20-23.

Cases in Hawaiian Reports: Norton v. Paahana, 3 Haw., 300; R. v. Yung Hong, 7 Haw., 361; Govt. v. Ah Hun, 9 Haw., 98.

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TITLE II.

[*CHAPTER 5.*]

CHAPTER 6.

GENERAL REGULATIONS FOR DEPARTMENTS.

BONDS.

§ 25. In every case where bonds for the faithful performance of duty are not already required by law of officers or employees in any department or bureau of the government, the head of the department or of the bureau, as the case may be, may require every such officer or employee to give a bond for the faithful performance of his duties.

§ 26. Whenever any such bond shall be required by the head of a department, the amount of the penalty and the conditions of the bond shall be such as the head of the department shall deem proper. And when any such bond is required by the head of a bureau, the amount of the penalty and the conditions of the bond shall be such as the head of the bureau, with the approval of the head of the department, shall deem proper.

§ 27. All such bonds heretofore given are hereby ratified and confirmed.

SALARIES AND FEES.

§ 28. In case any officer, agent, employee, or other person in the public service shall be indebted to the government, or to any of the departments thereof, his salary or compensation shall be withheld by the head of the proper department, or the officer authorized to settle his accounts, until such indebtedness be fully paid and discharged.

§ 29. All official and departmental fees received underthe provisions of this code shall be accounted for and paid over into the public treasury, except fees designated and intended to be applied in compensation of the officers receiving the same. And no public officer in receipt of a salary for his services shall receive any other or further compensation therefor, unless specially allowed by law.

[§§ 30–33.]

NOTE TO CHAPTER 6.

§§ 25–27 are L. R. Act. 9. §28 is C. L., §515. §29 is C. L., §1494.

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[TITLE III.]

[*CHAPTER 7.*]

[§§ 34–55.]

[*CHAPTER 8.*]

[§§ 56–64.]

CHAPTER 9.

NATIONAL GUARD.

§ 65. The governor shall be the chief administrative officer of the military forces of the Territory of Hawaii. He shall have the supervision of the expenditure of the appropriation for the support of the military, and shall be responsible therefor. He is authorized to establish and prescribe such rules and regulations, not inconsistent with the provisions of the law, as he may deem proper for the use, government, and instruction of the national guard, and to carry into effect the provisions of the law relative thereto, and upon promulgation they shall have the same force as law. He is authorized to appoint and convene general courts-martial, and to review the findings of general and regimental courts-martial, and to modify, reverse, or confirm the same.

[§ 66.]

§ 67. The organized and uniformed military force of the Territory of Hawaii is known as the national guard of Hawaii. This force shall consist of not less than four companies, which may be organized by order of the commander in chief, and must be located throughout the islands with reference to the military wants thereof, means of concentration, and other military requirements.

Provided, however, that the commander in chief may organize bodies of sharpshooters, which shall not be a part of the national guard of Hawaii, but shall be entitled to similar immunities, and in time of peace shall be subject only to such laws and regulations as may from time to time be prescribed for their government by the commander in chief.

§ 68. The military forces of the Territory of Hawaii shall be organized into companies, battalions, and regiments, and shall consist as follows:

Companies shall consist of not less than forty nor more than one hundred and three officers and enlisted men. They shall be organized with one captain, one first lieutenant, and one second lieutenant, and not less than thirty-seven nor more than one hundred enlisted men.

Battalions shall consist of two or more companies.

Regiments shall consist of two or more battalions.

§ 69. The field officers of a regiment shall be one colonel, one lieutenant-colonel, with one major for each battalion.

The staff of the commanding officer of a regiment shall consist of one surgeon with the rank of major, one adjutant, one quartermaster,

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one ordnance officer, and one chaplain, each with the rank of captain, who are appointed by the commanding officer and hold office at his pleasure or until their successors are appointed and qualified.

There shall also be a surgeon appointed for each battalion, with the rank of captain, and an adjutant with the rank of first lieutenant.

The noncommissioned staff consists of one regimental sergeant-major, one sergeant-major for each battalion, one quartermaster sergeant, one ordnance sergeant, one commissary sergeant, two color sergeants, and one chief musician with the rank of sergeant-major.

§ 70. The governor is the commander in chief of the national guard.

§ 71. The staff of the commander in chief may consist of one adjutant with the rank of lieutenant-colonel, two majors, and such aides as he may deem necessary, with the rank of captain, to hold office at his pleasure.

§ 72. The commander in chief is authorized and has power to establish and prescribe such rules and regulations, forms, and precedents, not inconsistent with the provisions of the laws, as he may deem proper for the use, government, and instruction of the national guard, and to carry into full effect the provisions of the laws relative thereto. Such rules, regulations, forms and precedents shall, from time to time, be revised as may be deemed necessary, and shall be promulgated in orders and compiled in such form as may be deemed advisable for the information of the national guard, and shall have the same force as though prescribed by law.

§ 73. All commissioned officers of the national guard and sharpshooters shall be commissioned by the commander in chief, but he may refuse to issue a commission to any officer elected or appointed if in his opinion the person elected or appointed is in any way unqualified or unworthy to be an officer in the national guard.

§ 74. The commander in chief shall have authority to appoint and commission officers on active service in case of vacancies. The commission of any officer called into active service continues until he is discharged by order of the commander in chief. Any officer while on active service shall be subject to removal by order of the commander in chief.

§ 75. Vacancies in elective offices of the national guard, not in active service, are filled by election. When vacancies occur at any election through the promotion of any officer, such vacancies may then and there be filled without further order. Elections of all commissioned officers of companies not on active service must be by ballot, and shall be presided over by an officer appointed for that purpose by the commander in chief, and such presiding officer shall, if the election be for company officers, give at least seven days' notice of his appointment to all parties interested by causing the order appointing him to be posted in the armory and read to the company. If for field officers, at least fourteen days' notice by publication in some newspaper published in Honolulu. He shall within three days following the election report the result of said election to the commander in chief. In all elections for commissioned officers a majority of the votes of those present shall be necessary to a choice. In order to the validity of such election there must be present at least a majority in number of those entitled to vote. In elections of field officers, field and line officers are entitled to vote. Field officers hold office for two years, or until their successors are duly qualified. Line officers hold office for one year, or until their successors are duly qualified.

§ 76. Every elected line officer of the national guard must, on his

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election to an office, appear before an examining board for examination as to his qualifications for the office to which he has been elected.

§ 77. When an officer is reelected no new commission issues, but a certificate of such election must be issued to him by the commander in chief.

§ 78. Whenever a sufficient number of persons subject to military duty subscribe a call for the organization of a company, the commander in chief, upon the application of such persons, may appoint a time and place of meeting for the purpose of organization, and detail an officer to preside over the same.

§ 79. The commander in chief may at any time, for good and sufficient reasons, disband any portion of the national guard and sharpshooters.

§ 80. Any officer resigning his commission must do so in writing, addressing the adjutant of the general staff, giving his reason therefor, and transmit the same through his immediate commanding officer, who will make his indorsement thereon; and the resignation takes effect when accepted by the commander in chief and announced in orders.

§ 81. All officers and soldiers of the national guard and sharpshooters who comply with all military duties as provided in this chapter are entitled to exemption from the payment of poll tax, school tax, and road tax; and all officers and soldiers in active service shall be exempt from jury service.

§ 82. The adjutant of the general staff must make out, on or before the 5th day of July of each year, a complete roll of the military forces of each taxation district as they appear on the records of his office July 1st, and furnish a copy of the same, duly sworn, to the assessor of the district wherein such force is located.

§ 83. All officers and soldiers of the national guard, on becoming members and before performing duty, and at each subsequent reenlistment, election, or promotion, must take and subscribe to an oath as follows, which all commissioned officers thereof are empowered to administer. Oath for officers: "I do solemnly swear that I will support the Government of Hawaii and that I will serve honestly and faithfully against all its enemies whomsoever, and that I will obey the orders of the Governor of the Territory of Hawaii and the orders of the officers appointed over me, and will maintain and defend the laws, and that I will serve in the national guard of Hawaii as a soldier for the term of one year, provided that the Government should so long require my service." Oath for enlisted men: "I do solemnly swear that I will support the Government of Hawaii and that I will serve honestly and faithfully against all its enemies whomsoever, and that I will obey the orders of the Governor of the Territory of Hawaii and the orders of the officers appointed over me, and will maintain and defend the laws, and that I will serve in the national guard of Hawaii as a soldier for the term of one year, provided that the Government should so long require my services." Which oath, certified by the officer administering the same, must be returned to the regimental adjutant and be preserved with the rolls of companies. Oaths of reenlistment shall show on the margin the number of the reenlistment.

§ 84. All fines and penalties for nonattendance upon drills, parades, and inspections, determined and imposed under the provisions of such rules and by-laws as may be adopted from time to time by any regiment, battalion, or company, and approved by the commander

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in chief, or such fines and penalties as may be determined by court-martial, may be collected by action in the district court, in the name of the Territory of Hawaii; and the books and records of the regiment, battalion, or companies and the proceedings under which delinquents are fined are *prima facie* evidence of the facts therein stated.

§ 85. Any enlisted man may be discharged before the expiration of his term of service by order of the commanding officer of the battalion or regiment, or on the recommendation of his company commander, or for any of the following reasons: To accept promotion by commission; upon removal of residence out of the bounds of the command to which he belongs to so great a distance that, in the opinion of such commanding officer, he can not properly perform his military duty: upon disability established by certificate of a medical officer. Or he may be dishonorably discharged for any of the following reasons: Upon conviction of a felony in a civil court; by sentence of a court-martial.

§ 86. Any officer or enlisted man of the national guard of Hawaii who shall be dishonorably discharged shall thereby be disabled to hold any office or employment in the service of the Territory of Hawaii unless pardoned by the commander in chief.

§ 87. In case of war, insurrection, or rebellion, or of resistance to the execution of the laws of this Government, all employees of the Government, unless physically disabled, shall report for duty and be subject to military service.

§ 88. All retainers to the camp or posts, and all persons serving with the military or armed forces in the field, though not enlisted soldiers, are to be subject to orders according to the rules and discipline of war.

§ 89. Every officer commanding a company shall be charged with the arms, accoutrements, ammunition, clothing, or other stores belonging to his command, and shall be accountable to the Government for the same in case of their being lost or damaged otherwise than by unavoidable accident or in actual service.

§ 90. Any commissioned officer who has served for a continuous period of five years, or who has become disabled and incapable of longer performing the active duties of his office, may, upon his own application, be placed upon the retired list, if, upon examination by a medical officer, it is found that such disability was not incurred by reason of any dereliction on his part. Officers retired will hold the rank held by them at the time of retirement, and shall only be subject to detail for duty by orders from the commander in chief. When detailed for duty they will take rank next to officers of like rank upon the active list.

§ 91. In case of war, insurrection, rebellion, or of resistance to the laws of this Government, the national guard and sharpshooters, or any part thereof, may be called into active service upon the call or requisition of the commander in chief. Any member of the national guard or sharpshooters who neglects or refuses to rendezvous when ordered out by the commander in chief is guilty of disobedience of orders and may be tried and punished by a court-martial.

§ 92. The national guard and sharpshooters shall be armed and equipped as prescribed from time to time by the commander in chief.

§ 93. No military organization provided for in this chapter shall, either for ceremony or duty, carry any flag of any State or nation except that of the Government of Hawaii.

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NOTE TO CHAPTER 9.

§§ 65–66 are S. L. 1896, Act 8. §§ 67–87 are 1895, Act 20. §§ 1–21; amended as follows: § 69 by S. L. 1896, Act 49. §§ 83 and 85 by S. L. 1898, §§ 1–2. §§ 88–93 are 1895, Act 20. §§ 40–45.
Courts-martial, see Penal Laws, ch. 98.

CHAPTER 10.

DEPARTMENT OF PUBLIC INSTRUCTION.

§ 94. There shall be an executive department to be known as the department of public instruction, which shall consist of a superintendent of public instruction and six commissioners.

§ 95. The superintendent of public instruction shall be the chief administrative officer of the department, and shall keep an office at the seat of government. The superintendent of public instruction may be referred to in this chapter as the superintendent.

§ 96. The governor, by and with the advice and consent of the senate, shall appoint six competent persons to act as commissioners. They shall be divided into three classes of two commissioners in each class, who shall be commissioned for the term of one, two, and three years, respectively; and as such commissions shall expire, the vacancy shall be filled by appointments for terms of three years, so that there shall be a continual succession of such classes, one class going out of office each year. In case of a vacancy among the commissioners from any cause other than the expiration of the tenure of office, such vacancy shall be filled by appointment, and the term of office of such commissioner shall be the remainder of the term to which his predecessor was appointed.

§ 97. No person in holy orders or a minister of religion shall be eligible as a commissioner. Women shall be eligible to be appointed as commissioners; provided, however, that not more than two shall hold commissions at any one time. All commissioners shall serve without pay.

§ 98. The superintendent and three commissioners, or, in the absence of the superintendent, four commissioners, shall constitute a quorum for the transaction of business.

§ 99. The superintendent shall preside at all meetings at which he may be present, and in his absence the commissioners may choose one of their number to act as chairman of the meeting.

§ 100. The superintendent shall sign all drafts for the payment of moneys, all commissions and appointments, all deeds, official acts, or other documents of the department. He shall, not later than the last Wednesday of February in each year, present to the governor a full report of the principal transactions within his department during the year ending December thirty-first last preceding, together with such recommendations as he may think proper.

§ 101. The department may adopt rules and regulations not contrary to existing laws for the government of all teachers and pupils, and its officers, agents, and servants, and for the carrying out the general scheme of education and for the transaction of its business, which, when approved by the governor and published, shall have the force and effect of law.

§ 102. The department shall maintain an office at the seat of government, which shall be open for the transaction of business every day, excepting Sundays and holidays.

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§ 103. The department shall adopt a seal, the impression of which shall be necessary to authenticate all of its appointments, commissions, final acts of the nature of record, and all other documents issued by it.

§ 104. The department shall cause all its proceedings, doings, and acts to be recorded, and such records shall from time to time be filed in the archives of the department. A certified copy of such record, or any portion thereof, when signed by the superintendent and attested by the secretary under the seal of the department, shall be competent evidence of all it contains in any court.

§ 105. The department may from time to time appoint and remove such officers, agents, and servants as may be necessary for carrying out the purposes of this chapter, and regulate their duties, powers, and responsibilities, when not otherwise provided by law.

§ 106. For the purpose of supervision and inspection, the department shall appoint an inspector-general of schools, to hold office during its pleasure; provided, however, that no person in holy orders or a minister of religion shall be eligible to fill such office.

§ 107. It shall be the special duty of the inspector-general of schools to make frequent tours of the respective islands and districts; to examine into the condition of the public schools; to inform school officers and teachers of their several duties; and to foster generally an interest in the cause of education. The inspector-general may, in the discretion of the department, have the power of appointment and dismissal of school-teachers; the arranging and rearranging of studies to be pursued; and the prominence to be given to any particular branch of learning; to examine the books, vouchers, and accounts of the various school agents and local school committees; to hold examinations for the purpose of determining the qualifications of persons desiring to serve as school-teachers; to give certificates of approval to those found competent; and to do and perform all other matters and things entrusted to his care by the department. He shall report in writing a distinct statement to the department of all acts and duties performed by him; all of which shall be subject to be approved or disapproved by the department.

§ 108. The department shall appoint a secretary to hold office during its pleasure. He shall record the doings and transactions of the department, take minutes of all its meetings, noting the same in a book of record; keep the minutes of the meetings of the various committees, if so requested; carry on the necessary correspondence; and keep a true and accurate account of all the financial transactions of the department; and to do and perform all other acts and things as may be required of him by the department. He shall have the custody of and be responsible for the safe-keeping of all books, records, vouchers, and other documents, and all other property of the department kept at its general office at the seat of government.

§ 109. The department shall appoint a school agent for each school district, to serve during its pleasure, who shall be entrusted with the execution of all acts, orders, instructions, and regulations of the department and of the inspector-general. All of his acts and doings shall be subject to the final approval of the department.

§ 110. All schools shall be presided over by qualified teachers. If there shall be more than one teacher in any public school, one of them shall be designated by the department as principal.

§ 111. The salary of the various school agents, teachers, servants, and officers, not specially provided by law, shall be such as may be from time to time allowed by the department.

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§ 112. All schools established and maintained by the department in accordance with law are public schools. All other schools are private schools.

§ 113. The department shall have entire charge and control and be reponsible for the conduct of all affairs appertaining to public instruction. The department is authorized to establish and maintain schools for secular instruction at such places and for such terms as, in its discretion, it may deem advisable and the funds at its disposal may permit. The department shall regulate the course of study to be pursued in all grades of public schools, and classify them by such methods as it shall deem proper. Such schools may include normal schools, high schools, kindergarten schools, schools for technical instruction, boarding schools, evening as well as day schools. The department may also maintain classes for normal, technical, and other instruction in any school where there may not be pupils sufficient in number to justify the establishment of separate schools for such purposes.

§ 114. Any person desiring to establish a private school shall make an application in writing to that effect to the school agent of the district in which it is desired to establish such school, which application shall be accompanied by a memorial from the parents and guardians of the children intending to attend such school, stating that the applicant is the person of their choice for a teacher of their children. If the applicant possesses the necessary qualifications to become a teacher of the school proposed, the department shall issue a permit authorizing the establishment of such school.

§ 115. Every private school shall be subject to the supervision of the department. It shall be the duty of the department to require that teachers of private schools be persons of good moral character; and that the premises of such schools comply with the rules and regulations of the department, as from time to time promulgated, with regard to sanitary conditions and hygiene.

§ 116. There shall be no charge for tuition in any public school; provided, however, that the department may, in its discretion, establish, maintain, and discontinue select schools taught in the English language, at a charge of such tuition fees for attendance as it may deem proper; provided, however, that such select schools shall be established only in places where free schools of the same grade for pupils within the compulsory age are readily accessible to the children of such district.

§ 117. The attendance of all children between six and fifteen years of age, both inclusive, at either a public or private school is obligatory. And it shall be incumbent upon all parents, guardians, and others having the responsibility and care of children of such ages to send them to some such school, provided that such attendance shall not be compulsory in the following cases, but in no others:

First. Where there is no school in the school district where such child resides and the distance to the nearest school exceeds four miles.

Second. When such child shall be physically or mentally unable to attend school, of which fact the certificate of a duly qualified physician shall be evidence.

Third. When a competent person is employed as tutor in the family wherein such child resides and proper instruction is thereby imparted.

Fourth. Where any child of not less than the age of thirteen years

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shall have passed the required examinations of both primary and grammar school grades, as such requirements shall from time to time exist.

§ 118. No person within school age shall be considered as complying with the law as to attendance who shall attend a private school which does not comply with the requirements of this chapter.

§ 119. The management and control of all schools heretofore managed or controlled by the board of education are hereby transferred to the department of public instruction.

§ 120. All property, real, personal, or mixed, heretofore belonging to the board of education, together with all money heretofore or hereafter appropriated for the benefit of the bureau of public instruction, is hereby transferred to the department of public instruction, and all rights duties, and powers heretofore belonging to the board of education are hereafter to be exercised and performed by the department.

§ 121. Authority is hereby granted to the department to transfer to the General Government all its property, real, personal, or mixed, reserving, however, the management and control of all church sites, school sites, and school buildings, furniture and appliances.

§ 122. Whenever a site for a schoolhouse or land for other educational purposes, as provided by law, shall be required, and the same can be located upon public land, the commissioners of public land, upon the recommendation of the department and approval of the governor, may set apart sufficient land for such purpose without compensation; and thereupon the commissioners of public land shall be relieved from all further responsibility or liability in regard to the premises so set apart.

§ 123. The English language shall be the medium and basis of instruction in all public and private schools, provided that where it is desired that another language shall be taught in addition to the English language such instruction may be authorized by the department, either by its rules, the curriculum of the school, or by direct order in any particular instance. Any schools that shall not conform to the provisions of this section shall not be recognized by the department.

§ 124. The department may establish and maintain one or more teachers' conventions or institutes, or it may authorize and permit their establishment by and among its teachers, and may direct and authorize the attendance of teachers thereat as a part of their duties, and may permit the closing of schools at specified limited times, in order to permit their attendance at such conventions or institutes.

§ 125. The department shall furnish all necessary books and stationery required for the use of pupils in their respective grades, charging therefor their cost price. All pupils must be supplied by their parents or guardians, or other persons having the custody or care of such pupils, with books and stationery requisite for their use. And in case pupils shall not be so supplied, the teacher of the school may furnish such books and stationery, and require the parents or guardians to make payment therefor. If such payment shall not be promptly made he shall notify the tax assessor of the district in which the school is located, who shall enter the amount due as a portion of the tax to be collected of such parents or guardians, and the payment of such amount, together with interest and costs, shall be enforced as in the case of delinquent taxes. In cases of extreme poverty, the cost of all books and stationery may be remitted by the department, provided that in such cases the use only of such books shall be authorized,

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and when the pupils shall have finished the use of the same the books shall be returned to the teacher.

§ 126. Any teacher shall have power to administer necessary and reasonable punishment upon any pupil while in attendance at school, and shall not in any way be held responsible therefor.

§ 127. The department may furnish books, stationery, and other school supplies at a price sufficient to cover cost, including interest, to private schools or pupils therein, or to other persons for educational purposes.

§ 128. All moneys received for the sale of books, stationery, and supplies shall from time to time be paid over to the treasurer, with a definite statement of what they represent.

§ 129. The various school agents shall from time to time draw drafts upon the department to pay salary of school teachers and other employees in their respective school districts, and for the payment of such expenses for repairs and improvement of school property in their respective districts as shall be authorized. In the drawing of drafts, payment of school teachers and other employees of the department, and in attending to other financial interests of the department, the school agents shall observe and perform such rules and regulations as may be from time to time adopted by the department.

§ 130. The various school agents shall, under the direction of the department, have charge and control of all property of the department in their respective districts; they shall attend to the preservation and care of all buildings, in order that the same may be preserved from injury and decay, and when occasion requires shall call the attention of the superintendent or inspector-general to such steps as seem necessary to that object.

§ 131. Whenever the parents or guardians of children attending any public school shall deem themselves aggrieved on account of the conduct of the teacher, they shall have the right to present their petition in writing to the school agent, who shall then appoint a time for the hearing of the case; and if, in his opinion, the case of the petitioner shall have been proved by good and sufficient testimony, such teacher may be suspended by him and another appointed, subject to the final approval of the department.

§ 132. For the better control and management of the public schools, the department is authorized to designate school districts, to establish their boundaries, and to alter the same from time to time as in its discretion it deems most advisable. These districts shall be so arranged that there shall be no unassigned locality.

§ 133. All persons of school age shall be required to attend the school of the district in which they reside, unless it shall appear to the department to be desirable to allow the attendance of pupils at a school in some other district, in which case the department or school agent of that district may grant such permission.

NOTE TO CHAPTER 10.

§§ 94–133 are S. L., 1896, Act 57.
Penalties for violations of this chapter, see Penal Laws, ch. 79.
Cases in Hawaiian Reports: Kahula v. Austin, 8 Haw., 56.

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CHAPTER 11.

SPECIAL DUTIES OF THE DEPARTMENT OF PUBLIC INSTRUCTION.

[§§ 134–135.]

AGRICULTURE IN THE PUBLIC SCHOOLS.

§ 136. It shall be lawful for the superintendent of public instruction to include agriculture and industrial pursuits among the branches of instruction taught by the public schools of the Territory.

§ 137. The superintendent of public instruction shall have power to prescribe the manner and designate the places in which such pursuits shall be conducted, and also to determine the extent to which they shall be followed, either generally or to suit particular cases.

§ 138. For the purpose of this chapter it shall be lawful for the department of public instruction, after due notice to the commissioner of public lands, to use free of rent as much of any government land, not otherwise employed, as shall be advantageously cultivated by the teachers and pupils of any public school; and the teachers and pupils aforesaid shall have the right to continue to cultivate such government land so long as the same shall not be otherwise disposed of by the commissioner of public lands, or otherwise ordered by the department of public instruction; and in case of disposal of the same by the commissioner of public lands, sufficient notice shall be given to enable the removal of improvements and the gathering of growing crops, without loss to the owners thereof.

§ 139. Whenever it shall deem the same desirable, the department of public instruction may also acquire, on such terms as may be agreed upon, land other than government, that may be advantageously employed for the purposes herein stated.

§ 140. All net profits arising from agricultural and industrial pursuits, under this chapter, shall belong to the teachers and pupils actually engaged in such pursuits, and shall be divided among the same in such proportions as the department of public instruction shall deem proper; but the provisions of this section shall not be deemed applicable to schools otherwise regulated by law.

§ 141. All laws at present in force, or that shall be enacted hereafter for the government, discipline, and welfare of the public schools of the Territory, shall in their operation be construed to include the enforcement of the provisions of this act in relation to agricultural and industrial pursuits in said schools.

VIOLATION OF CHARTERS.

§ 142. Whenever the department of public instruction shall be satisfied that the charter of any literary institution has been violated, it shall be the duty of the superintendent of said department to report such violation to the attorney-general, and said attorney-general shall take immediate steps to have such charter annulled.

NOTE TO CHAPTER 11.

§§ 134–135 are S. L., 1872, ch. 33. C. L., p. 555. §§ 136–141 are S. L., 1874, ch. 14. C. L., p. 557. § 142 is act Jan. 10, 1865, § 28. C. L., p. 207.

[*CHAPTER 12.*]

[§§ 143–149.]

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CHAPTER 13.

ACTS IN AID OF THE BOARD OF EDUCATION.

[§§ 150–156.]

ISSUE OF LAND PATENTS FOR LAND SOLD BY THE BOARD OF EDUCATION.

WHEREAS, by section 1 of an act entitled "An act to provide for the better support and greater efficiency for the public schools," passed July 9th, 1860, it is enacted as follows, viz: Section 1. That there shall be set apart certain lands amounting as nearly as can be ascertained without actual measurement to the one-twentieth part of all lands now belonging to the Government, not otherwise appropriated, for the general purposes of education;

AND WHEREAS, by section 2 of the said act, it is enacted as follows: "Section 2. It shall be the duty of the minister of public instruction in consultation with the minister of the interior to designate said lands, which designation, when approved by the privy council, shall be valid;"

AND WHEREAS, by section 3 of the said act, it is enacted as follows, viz: "Section 3. The minister of public instruction shall be authorized to dispose of said lands for the purpose above mentioned, either by sale, lease, or otherwise, as in his judgment and that of the King's cabinet, shall best subserve the interests of education on the islands;"

AND AGAIN, in sectiom 32 of an act entitled "An act to repeal chapter 10 of the civil code, and to regulate the bureau of public instruction," approved January 10th, A. D. 1865, it is enacted as follows, viz: "Section 32. The board of education is hereby authorized to dispose by sale, lease, or otherwise of any of the lands which have been, or hereafter may be, set apart for the general purposes of education;"

AND WHEREAS, in pursuance of the provisions of sections 1 and 2 above recited, of the act of July 9th, 1850, before mentioned, the minister of public instruction, in consultation with the minister of the interior, did designate and set apart for the general purposes of education, certain lands and school sites, which, approved by the privy council on the 23rd day of December, 1850, in the following resolution, viz: "*Resolved*, That in accordance with section first of the late school act, to provide for the better support and greater efficiency of the public schools, the following lands be, and are hereby, appropriated for the general purposes of education on the islands, to be disposed of as provided in said act. And all lands now occupied by the Government schools and known as having been appropriated to their use, either by individuals, chiefs, or by the Government;"

AND WHEREAS, owing to changes of population and centres of industrial and agricultural pursuits throughout the country, it has become necessary in many cases to exchange the former original sites for sites better adapted for present school purposes;

AND WHEREAS, many of the sites so exchanged are in localities where there use for the permanent improvement of contiguous property is essential, and the necessity for a perfect title to them, therefore apparent: Therefore,

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Be it enacted, etc.

§ 157. That the department of public instruction shall be, and is hereby, authorized to make requisitions, in writing, on the commissioner of public lands for the issuance of land patents to the said department or to such grantees as the said department shall name in its requisitions, for such school lands, school sites, or school reserves as it shall, from time to time, dispose of under the provisions of existing statutes relating thereto.

§ 158. Land patents, signed by the governor, and countersigned by the commissioner of public lands, shall issue under the great seal of the Territory to the department of public instruction, or to such grantees as the said department shall name in its requisitions on the commissioner of public lands for such school lands as it shall, from time to time, dispose of and as shall have been set apart and designated as such by the resolution of the privy council of December 23rd, A. D. 1850, or by any subsequent act or authority, and also for all original school sites and school reserves as shall have been set apart and surveyed as such, and as shall have been approved by the superintendent of public instruction and the commissioner of public lands pursuant to the provisions of the school act of July 9th, A. D. 1850, before mentioned, or by any subsequent act or authority relating thereto.

NOTE TO CHAPER 13.

§§ 157-158 are S. L. 1880, ch. 35. C. L., p. 652.

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[TITLE IV.]

[*CHAPTER 14.*]

[§§ 156–165.]

CHAPTER 15.

General Provisions Respecting Government Lands.

[§§ 166–168.]

§ 169. The superintendent of public works or the commissioner of public lands, by and with the authority of the governor, shall have power to lease, sell, or otherwise dispose of the public lands and other property in such manner as he may deem best for the protection of agriculture and the general welfare of the Territory, subject, however, to such restrictions as may, from time to time, be expressly provided by law; and provided that no sale of one land or lot exceeding five thousand dollars in value shall be made without the consent of the governor.

§ 170. The superintendent of public works is hereby authorized to have all the government roads of this Territory surveyed and the distances fixed by suitable milestones, and to publish the said distances in the government newspapers, which published tables shall be recognized by the courts of the Territory as the established mileage.

§ 171. A land patent, signed by the governor and countersigned by the commissioner of public lands, shall issue under the great seal of the Territory to the purchaser in fee simple of any government land or other real estate, and also to any holder of an award from the board of commissioners to quiet land titles for any land in which he may have commuted the government rights.

§ 172. All land patents, leases, grants, or other conveyances of any government land or real estate shall be prepared by and issued from the office of superintendent of public works or commissioner of public lands, as the case may be; and it shall be the duty of the superintendent or commissioner to keep a full and faithful record of all such patents, leases, grants, and other conveyances. Said record shall be open to public inspection, and he shall furnish a certified copy, under his official seal, of any instrument therein recorded to any person applying therefor, upon being paid at the rate of fifty cents for every one hundred words. Every such certified copy shall be received as evidence in any judicial court of the Territory, the same as the original instrument itself.

§ 173. It shall be the duty of the superintendent of public works to cause such surveys, maps, and plans of the government lands, harbors, and internal improvements to be made as the public inter-

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ests may require; which surveys, maps and plans shall be kept in his office for public inspection and reference.

[§§ 174, 175.]

§ 176. The superintendent of public works is prohibited from selling the water ponds, springs, and streams belonging to the government in or near Honululu; that is to say, the pond of Kunawai, in the Ili of Kunawai, and the ponds of Kumuhahane and Kalaupalolo, in the Ili of Alewa, and all other government water ponds, springs, and streams, wherever situated, which may be valuable for public use; and any sale in contravention of this section shall be absolutely null and void.

§ 177. All transfers of government lands, excepting those made under the provisions of chapter 87 of the laws of 1892, entitled "An act to consolidate and amend the law entitled 'An act to facilitate the acquiring and settlement of homesteads,' otherwise known as the 'homestead act,' "* and any other laws that may hereafter be enacted for a similar object, shall be made at public auction after not less than thirty days' notice by advertisement in two newspapers, published, one in the English and one in the Hawaiian languages. All such transfers shall be made at the door of the executive building at Honolulu, and shall be cried by the superintendent of public works or the commissioner of public lands, or by one of his clerks under his direction, who shall perform this service without extra compensation. Notice of any auction as above required shall contain a full description of the land to be sold, as to locality, area, and quality with reference to the survey, which shall in all cases be kept in the office of the superintendent or commissioner. Such surveys shall be open to inspection to all who may desire to examine the same, without charge, during the whole period of the advertisement of the said auction. In case application has been made for the purchase of government land and a price has been offered for the same, the price offered shall be published in the auction advertisement as the upset price for which the land shall be offered.

§ 178. The provisions of § 177 shall not extend or apply to cases where the government shall by quitclaim or otherwise dispose of its rights in any land by way of compromise or equitable settlements of the rights of claimants, nor to cases of exchange or sales of government lands in return for parcels of land acquired for roads, sites of government buildings, or other government purposes.

NOTES TO CHAPTER 15.

§§ 166–169 are C. L., §§ 39–42. § 170 is S. L., 1870, ch. 18, C. L., p. 538. §§ 171–176 are C. L., §§ 43–48. § 177 is P. G., act 48. § 178 is S. L., 1876, ch. 14, C. L., p. 11. *See § 269.

Cases in Hawaiian Reports: Robello v. Wong Quong, 5 Haw., 98; Gulick v. Flowerdew, 6 Haw., 430; Re Streets, 7 Haw., 781; Thomas v. Norton, 8 Haw., 70; Minister v. Papaikou, 8 Haw., 126.

CHAPTER 16.

LEASES OF GOVERNMENT LANDS.

§ 179. The superintendent of public works may, with the approval of the governor, make leases of government lands under the control and management of the superintendent of public works for any number of years not over thirty, at public auction, for the erection

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of stores, warehouses, factories, shops, business and professional offices, and other buildings for business, manufacturing, or professional purposes, and the occupation thereof by the lessees.

§ 180. Every such lease shall contain a covenant on the part of the lessee that he shall, during the first four years of the term of the lease, cause to be erected upon the leased premises a fire-proof building of brick, stone, or metal, in a workmanlike manner, satisfactory to the superintendent, at not less than a stated cost; and shall keep the same suitably insured at not less than two-thirds of its value for the benefit of the lessor; and shall keep such building in good repair during the remainder of the term of the lease, reasonable use and wear thereof only excepted; and in case of damage or destruction of such building by fire shall make good such loss or damage by the necessary repairs or reconstruction, or else surrender the insurance to the lessor.

§ 181. Every such building, with all fixtures and additions thereto, shall, at the expiration of the term of the lease of the premises upon which it is erected, or other sooner determination thereof, vest in the government.

§ 182. Every such lease shall also contain a covenant on the part of the lessor that upon the request in writing by the lessee or his representatives before the expiration of the term thereof the premises, with the improvements, shall, if all of the conditions to be performed by the lessee have been satisfactorily performed, be put up at auction for a lease for a term of not over twenty years, unless said premises shall be required for public uses, of which the lessee shall receive at least one year's notice. Such auction sale shall be held not more than six months nor less than one month before the expiration of said term.

§ 183. The covenants required by sections 180 and 182 shall be set forth in every such lease, and in the advertisement of every public auction, required by section 179, and at every such public auction shall be read aloud to the audience by the auctioneer.

§ 184. In addition to the said covenant such leases shall contain usual stipulations and reservations.

NOTE TO CHAPTER 16.

§§ 179–184 are S. L., 1896, Act 7.

CHAPTER 17.

ACQUISITION OF HOMESTEADS.

§ 185. The short title of this chapter is "Land act, 1895."

PART I.—INTERPRETATION.

§ 186. In this chapter, if not inconsistent with the context, "Public lands" means all lands heretofore classed as Government lands, all lands heretofore classed as Crown lands, and all lands that may hereafter come into the control of the Government by purchase, exchange, escheat, or by the exercise of the right of eminent domain or otherwise except as below set forth.

"Commissioner" means Commissioner of Public Lands.

"Subagent" means the subagent of the public lands of the district where the land under consideration is situated.

"District" means the land district as constituted under this chapter, where the land under consideration is situated.

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"Land patent" means a Government grant of real estate in fee simple.

A "general lease" means any lease made by the Commissioner except those made under the provisions of parts 6 and 7 of this chapter, and all outstanding leases of Government and Crown lands.

A "land license" means a privilege granted by the Government for the occupation of land for certain special purposes, such as the cutting and removal of timber, the removal of soil, sand, gravel, or stone.

"Homestead lease" means a lease of land made under the provisions of this chapter for a term of nine hundred and ninety-nine years, which is inalienable and not subject to attachment.

"Certificate of occupation" means an instrument preliminary to a homestead lease, giving the applicant possession of land.

"Occupier" means a person entitled to the possession of land under a certificate of occupation.

"Right-of-purchase lease" means a lease with a right of purchase as provided by this chapter.

"Cash freeholder" means a right of possession to land under an agreement called a freehold agreement under the provisions of this chapter.

"Freeholder" means a person holding land under a freehold agreement.

"Permanent improvements" means houses, fences, roads, reclamation of swamp land, the planting of trees, coffee, and other perennial crops, and the clearing of land from forest growth, brush, or stones preliminary to the cultivation of the same.

Provided, however, that this chapter shall not apply to the following classes and descriptions of land, the property of the Government, all of which shall remain under the control and management of the superintendent of public works:

Town lots, sites of public buildings, land used for public purposes, roads, streets, landings, nurseries, tracts reserved for forest growth, and conservation of water supply, parks and all lands which may hereafter be used for public purposes. All land hereafter reserved by the Commissioner for public purposes shall thereupon at once pass under the control and management of the superintendent of public works.

The superintendent of public works, with the consent of the governor, shall have the authority at any time to turn over to the Commissioner for the purposes of this chapter any lands or parts of lands reserved for public uses.

Part II.—General Provisions.

§ 187. Public lands for the purpose of this chapter are hereby classified as follows:

1. Agricultural lands. First class: Land suitable for the cultivation of fruit, coffee, sugar, or other perennial crops with or without irrigation.

Second class: Land suitable for the cultivation of annual crops only.

Third class: Wet lands, such as kalo and rice lands.

2. Pastoral land. First class: Land not in the description of agricultural land, but capable of carrying live stock the year through.

Second class: Land capable of carrying live stock only part of the year or otherwise inferior to first-class pastoral land.

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3. Pastoral-agricultural land. Land adapted in part for pasturage and in part for cultivation.

4. Forest land. Land producing forest trees, but unsuitable for cultivation.

5. Waste land. Land not included in the other classes.

§ 188. All future leases of public lands in the classes of agricultural, pastoral, and pastoral-agricultural lands may contain a proviso that the government may at any time, with reasonable notice and without compensation, except for improvements taken, take possession of any part of the premises covered by such leases which may be required for laying out and constructing new roads or improving or changing the line or grade of old roads, and take from such premises soil, rock, and gravel as may be necessary for the construction or improvement of such roads; provided, that such privilege of taking without compensation shall not extend to such parts of such premises as are under cultivation with annual crops or sugar until such crops shall be harvested, nor to such parts of such premises as are planted and cultivated with coffee, fruit trees, or other perennial crops, or occupied or improved with permanent improvements, except fences.

§ 189. The commissioners of public lands may, from time to time, by public notice, proclaim as a road or street any portion of the public lands not occupied under the provisions of parts 6 and 7 of this chapter.

PART III.—GENERAL ADMINISTRATION.

[§ 190.]

§ 191. For the purposes of this act the Territory is divided into the following land districts:

First district: That portion of the island of Hawaii known as Hilo and Puna.

Second district: That portion of the island of Hawaii known as Hamakua and Kohala.

Third district: That portion of the island of Hawaii known as Kona and Kau.

Fourth district: The islands of Maui, Molokai, Lanai, and Kahoolawe.

Fifth district: The island of Oahu.

Sixth district: The islands of Kauai and Niihau.

§ 192. The commissioner shall be represented in each district by an officer who shall be designated the subagent of public lands, who shall be appointed by the commissioners and be removable at his discretion.

§ 193. The commissioner shall have power from time to time to establish forms of all instruments necessary for carrying out this chapter, and not herein expressly provided for, and to make, alter, and revoke rules and regulations for surveying public lands, for the protection of forests and reservations for forest growth, for the granting of land licenses, for the management of all public reserves and unoccupied public lands, and for more fully carrying out the objects and purposes and guarding against evasions and violations of this chapter.

§ 194. The commissioner, with the approval of the governor, shall have power to purchase lands for homestead purposes with any funds that may be appropriated therefor.

§ 195. The commissioner may from time to time appoint one or more persons in each district to be rangers of public lands, whose duties shall be to observe and see that the provisions of this chapter are complied with in their respective districts in relation to the obligations of tenants and grantees of public lands, and report to the subagent, and

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otherwise to discharge such duties in relation to the public lands of the district as the subagent shall require.

§ 196. The commissioner shall have authority to employ the necessary clerks and surveyors for carrying on the work of the commission and to fix their pay. He shall also fix the pay of subagents and rangers. The pay of the commissioners shall be fixed by the legislature.

§ 197. The commissioner shall administer the affairs of the public lands under the provisions of this act, and shall have authority to administer oaths in all matters relating to the administration of the public lands.

§ 198. The powers and duties of subagents within their respective districts shall, subject to the control of the commissioner, and in addition to those otherwise provided in this act, be as follows:

1. To prevent unlawful occupation of or trespassing on public lands.

2. To cause all trespassers and persons unlawfully occupying public lands, and their effects, and all animals trespassing on such lands to be removed therefrom and such animals to impound according to law.

3. In the name of the Government to enter on any public lands in order to take possession thereof, and to resume possession of public lands in case of surrender, forfeiture, or escheat.

4. To enforce contracts respecting sales, leases, licenses, or other disposition of public lands.

5. To recover rents, purchase moneys and other moneys due the Government in respect of any sales, leases, licenses, or other disposition of public lands, or for use and occupation thereof.

6. To recover money due the Government for injury or damage done to any public lands by wrongful entry and occupation or by wrongful removal therefrom or destruction of any property of the Government.

7. To bring such actions and proceedings as may be necessary to carry out the foregoing powers and duties in the name of the Government, and to defend such actions brought against the Government as may be authorized, in the courts of the district, in relation to the public lands thereof.

8. To keep a record of all his official transactions, including all contracts made by him with individuals and between individuals in relation to public lands within his jurisdiction, and all surrenders, forfeitures, and escheats of such lands, and facts of the decease of any occupier, lessee, or freeholder, and names of the successors to their rights as such.

9. To administer oaths in all matters appertaining to the administration of the public lands.

§ 199. All disputes, disagreements, or misunderstandings between the parties to any certificate of occupation, homestead lease, right of purchase lease, or freehold agreement, touching the construction of such instruments or in anywise relating thereto, which can not be amicably settled, shall be referred to the circuit judge in whose jurisdiction the premises in question are situated; and such circuit judge shall have full and exclusive authority in chambers, without the intervention of a jury, for adjudicating such matters, subject only to appeal to the supreme court.

PART IV.—LAND PATENTS.

§ 200. Land patents shall be signed by the governor and countersigned by the commissioner of public lands, and shall be stamped according to law, which stamp shall be paid by the purchaser.

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§ 201. The commissioner may, with the consent of the governor, sell public lands not under lease, in parcels of not over one thousand acres, at public auction for cash. Upon any such sale and the payment of the full consideration therefor, a land patent shall be issued to the purchaser.

And he may, with such consent, sell public lands not under lease in parcels of not over six hundred acres, at public auction, upon part credit and part cash, and deliver possession under an agreement of sale containing conditions of residence on or improvement of the premises sold, or of payment by installments or otherwise of the purchase price, or all or any of such conditions.

And in case of default in the performance of such conditions, the commissioner may, with or without legal process and without notice, demand, or previous entry, take possesssion of the premises and thereby determine the estate created by such agreement. In case of such forfeiture such land shall be sold at auction, either as a whole or in parcels, for cash or on terms of time payments, in the discretion of the commissioner; and if such sale result in advance on the original price, the original purchaser to receive therefrom the amounts of his payments to the government on account of purchase, without the interest and a pro rata share in such advance in proportion to the amounts of his payments. If such sale shall result, however, in a less price than the original, the amount returnable to him shall be charged with a pro rata amount of such decrease proportioned to the amounts of his payments.

The treasurer is hereby authorized to pay the amount returnable to the outgoing tenant, upon the requisition of the commissioner, out of any funds available for such purpose.

Which agreement shall entitle the purchaser to a land patent of the premises, upon the due performance of its conditions.

The commissioner shall have authority to fix any upset price for all such sales for cash or part credit and part cash.

All such sales shall be held in Honolulu, or in the district where the land to be sold is situated. Any person designated by the commissioner may act as auctioneer at such sales without taking out an auctioneer's license.

Provided, however, That land patents may be issued in exchange for deeds of private lands, or by way of compromise, upon the recommendation of the commissioner and with the approval of the governor, without an auction sale: And further provided, That the governor may in his discretion, upon such recommendation and approval, execute quitclaim deeds for perfecting the titles of private lands where such titles are purely equitable or where such lands are suffering under defective titles, or in cases of claims to use of lands upon legal or equitable grounds.

§ 202. All proceeds of sales of public lands shall be set apart as a special fund for the payment of the bonded indebtedness of the government or for the purchase of other lands as provided by § 194.

PART V.—GENERAL LEASES.

§ 203. The commissioner may at his discretion make general leases of public lands for any number of years, not to exceed twenty-one, at public auction, but no such lease shall contain a privilege of renewal nor be made for any land already under a lease which has more than two years to run. In no case shall it be lawful to collect rents on any

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such lease for more than one year in advance or to receive anything in the nature of a bonus for executing the same. Any such payment and receipt of rents for more than one year in advance or of such bonus shall render void the lease on account of which such advance rent or bonus is paid, upon proof thereof before any court having jurisdiction in such a case.

§ 204. Previous to the last two years of the term of any general lease the commissioner shall, with the approval of the governor, decide in regard to the premises covered by such lease whether the same shall be demised under a new lease or be reserved by the government for other disposition thereof under this chapter, or for forest improvements, or for the development of water supply, or other public uses or otherwise, or whether a part should be so reserved and a part demised under a new lease, and shall promptly notify the lessee of such lease of the nature of such decision.

§ 205. All general leases shall require the payment of rent in advance, quarterly, semiannually, or annually.

§ 206. Any general lease may require the lessee to fence off his live stock from any government forest reservation or reservation for development of water supply lying adjacent to the leased premises.

§ 207. The commissioner may in his discretion allow any lessee of a general lease to hold the leased premises after the expiration of the term of such lease upon the conditions set forth in the lease, in case such premises are not disposed of at the expiration of the term of the old lease, but such holding over shall not in any case be allowed for a period longer than one year.

§ 208. Any person or persons having at the date of the approval of this act, the right of possession to any public land except wet land under any lease, may, with the consent of the commissioner and the approval of the governor, obtain a land patent for the whole or any part thereof not to exceed in any case one hundred acres in area each, in one parcel, upon complying with the following conditions:

1. The bona fide cultivation of not less than twenty per cent of the area to be patented, to the satisfaction of the commissioner.

2. The payment to the commissioner of the unimproved value of the premises to be patented, as appraised by the commissioner.

3. The substantial performance of all the conditions of such lease to be performed by the lessee up to the time of making application.

4. The surrender of the remainder of the premises described in such lease, which may be accepted by the commissioner at his option.

Application for land patents under this section must be made to the commissioner within six months from the date of the approval of this act, and if the application is successful the applicant shall have three years from the date thereof in which to comply with condition 1. In case the surrender of the remainder of the premises as provided in condition 4 is not accepted by the commissioner, the lease shall remain in full force as to such remainder.

Provided that no person shall obtain more than one land patent under this section.

Payment of the purchase price of land patented under this section shall be made as follows: One-fourth immediately upon a successful application for the right to purchase the land specified, and the balance in equal installments in two, four, and six years, respectively, from the date of such application, with interest annually at the rate of six per cent, provided that the applicant may pay any such installment before it is due and thereby stop the corresponding interest.

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§ 209. For the purpose of taxation the value of general leases hereafter executed shall be the value of the fee of the real estate demised, and the lessees shall be assessed thereon accordingly. Such leases shall be void upon default in the payment of taxes thereon for sixty days after such taxes have become delinquent.

§ 210. The commissioner may in his discretion insert in all future general leases such conditions looking to protection of forests, protection of neighboring lands from débris, wash, and vegetable pests, protection of trees along roads or otherwise, as shall seem to him desirable in the public interest.

§ 211. The violation of any of the conditions of a general lease to be performed by the lessee shall be sufficient cause for the commissioner, with the approval of the governor, to take possession of the demised premises without notice, demand, or previous entry, and with or without legal process, and thereby determine the estate created by such lease.

PART VI.—HOMESTEAD LEASES.

§ 212. The commissioner of public lands is hereby authorized and instructed to cause to be surveyed and set apart from time to time suitable portions of public lands for the occupation of such persons as may desire to obtain homesteads under this part of this chapter. Such lands shall be selected only from agricultural and pastoral lands, and shall be laid out in lots of not over eight acres in first-class agricultural land, not over sixteen acres in second-class agricultural land, not over one acre in wet land, not over thirty acres in first-class pastoral land, and not over sixty acres in second-class pastoral land, and not over forty-five acres in pastoral-agricultural land. Convenient roads, as to grade and direction, shall be surveyed, connecting such lots with a public road.

§ 213. Upon the completion of any such survey the surveyor shall furnish the commissioner with a copy of the chart thereof and a copy to the subagent. The commissioner of public lands shall thereupon give public notice through newspapers or posters, or both, in the English and Hawaiian language, and, if he deem it advisable, in any other language in which newspapers in the Territory are published, declaring the said land to be open for settlement according to the provisions therefor set forth in this chapter.

§ 214. Such charts of survey shall be open to public inspection during business hours without charge. All applications for any of said lots shall be made in person by the applicant at the office of the subagent, and shall include a sworn declaration substantially according to the form of Schedule A. The applicant shall pay to the subagent a fee of two dollars at the time of making the application. Upon receiving any such application and the said fee the subagent shall endorse upon the application the day and hour of receiving the same and the receipt of the said fee. In case two or more persons apply for the same lot, the one whose application is first received shall have the preference. The fee deposited by the unsuccessful applicant shall be returned to him. No application not including a declaration of qualifications as above required, or not accompanied with the said fee, shall be received or considered. All fees collected shall be turned in and accounted for as government realizations.

Provided, however, That the subagent may in his discretion issue a certificate of occupation to any person qualified to apply for homestead leases according to the provision of section 215, who has estab-

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lished and continuously maintained a home upon public land for a period beginning at any time before the publication of this chapter, for such occupied land or a part thereof, within the limitations set forth in section 212, without the public notice provided in section 213.

QUALIFICATION OF APPLICANTS.

§ 215. Any citizen by birth or naturalization, or who has declared his intention to become a citizen of the United States, as required by law, over eighteen years of age, who is under no civil disability for any offense, who is not delinquent in the payment of taxes, who has not made a false declaration in applying for land under this chapter, who is not the owner in his own right of any land in the Hawaiian Islands not classed as wet land, and who is not an applicant for any other interest in land under this chapter, may make application for one of the said lots for his own use and benefit under the provisions of this part of this chapter.

Provided, however, That any qualified person may apply for one lot of wet land in addition to land of any other description already applied for or acquired by him under this part of this chapter, where such lot of wet land is reasonably near such other lot; and

Further provided, That no application of a married person whose wife or husband owns lands other than one acre of wet land in her or his own right in the Hawaiian Islands, or who is an applicant for land under this chapter, shall be received or considered, unless the marriage status of such person has been affected by a decree of annulment, separation, or divorce.

§ 216. If the qualifications of the applicant are satisfactory according to the foregoing statement thereof, the subagent shall execute a certificate of occupation in three parts for the lot applied for in favor of the applicant, and deliver one part to the applicant, another shall be filed with the commissioner of public lands, and the subagent shall keep the third on file in his office. The applicant upon receiving the said certificate shall have the right to take possession of and occupy the land described therein, and shall then be known as an occupier, which shall also be the designation of any successors to his rights under the said certificate of occupation. The occupier shall be entitled to a lease of said premises at the end of six years from the date of such certificate of occupation if all of the conditions of such certificate to be performed by the occupier shall have been substantially performed by him. The receipt of such certificate by the occupier shall be an acceptance and affirmation of the stipulations and conditions therein set forth.

CONDITIONS OF OCCUPATION.

§ 217. The right of possession of the occupier shall, in addition to the conditions set forth in § 225, be subject to the following special conditions:

1. He shall, before the end of two years from the date of the certificate of occupation, build a dwelling house on the said premises, unless a suitable dwelling house is already a part of the same.

2. He shall, before the end of two years from the date of the certificate of occupation, begin to reside on the said premises.

3. He shall continuously maintain his home on the said premises from and after the end of two years from the date of the certificate of occupation.

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4. He shall, before the end of six years from the date of the certificate of occupation, reduce to cultivation and have in cultivation at one time not less than ten per cent of the said land, or reduce to cultivation and have in cultivation at one time not less than five per cent of the said land, and plant and keep in good growing condition on the said premises an average of not less than ten timber, shade, or fruit trees per acre thereof, if the same is classed as agricultural land;

Or if the same is classed as pastoral land, he shall, before the end of six years from the date of the certificate of occupation, fence in the same.

§ 218. If at the end of two years from the date of the certificate of occupation it shall appear that the occupier has failed in performing either the first or second condition set forth in the last preceding section, or if at the end of six years from such date it shall appear that he has failed to perform either the third or fourth condition set forth in the last preceding section, the commissioner may take possession of such premises with or without legal process, and without notice, demand, or previous entry, and thereby determine the estate created by such certificate of occupation.

CONDITIONS OF LEASE.

§ 219. If at the end of the said six years it shall appear that the occupier has performed all of the said special conditions set forth in § 217, and also the conditions set forth in § 225, the commissioner of public lands shall certify to the governor the performance thereof, who shall thereupon execute a lease in three parts in favor of the occupier for the term of nine hundred and ninety-nine years, which lease shall be countersigned by the commissioner of public lands. The occupier upon receiving such lease shall thereafter be designated the lessee, which shall also be the designation of any successors to his rights under the same.

§ 220. One part of the said lease shall be filed in the office of the commissioner of public lands, another part filed in the office of the subagent, and the third delivered to the lessee upon his payment of a fee of five dollars, the receipt of which shall be endorsed upon the said third part by the subagent. And no interest shall be conferred by said lease except upon delivery thereof as aforesaid and the payment of such fee, and the receipt of such lease by the lessee shall be an acceptance and affirmation of the stipulations and conditions therein set forth.

§ 221. If the person named as a lessee in any such lease shall fail to attend in person or through his agent duly authorized in writing at the office of the subagent and to pay such fee and to receive such lease, for six months after the expiration of six years from the date of his certificate of occupation the right of such person to such lease and to the land therein demised shall cease, and the said lease and the certificate of occupation relating thereto shall be void.

§ 222. Neither such certificate, or lease, or the interest of the occupier or lessee in the premises named in the same shall be assignable, either by way of mortgage or otherwise except as below provided; neither shall such certificate or lease or the interest of the occupier or lessee therein, nor the buildings, improvements, or crops at any time placed or growing upon such premises, be subject to attachment, levy, or sale upon execution, or upon any process in bankruptcy, nor

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upon any process issuing from any court of this country; neither shall the premises named in such certificate or lease or any part thereof be sublet.

Any occupier or occupiers, or lessee or lessees, holding the whole interest in a certificate of occupation of homestead lease, may at any time surrender such interest to the government by delivery of the certificate of occupation or lease to the subagent with the intention to surrender such interest properly endorsed thereon and signed by him or them in the presence of the subagent and duly acknowledged. Any such surrender shall release the occupiers or lessees from all further duty of performance of the conditions of the document surrendered. No surrender by a minor under eighteen years of age shall be valid except through a statutory guardian. Any two holders of such certificates or of such leases in any one district who are not in default in the performance of any of the conditions of their respective certificates of occupation or lease may, with the consent of the subagent and upon the payment to him of a fee of one dollar each, exchange their certificates of occupation or leases with each other, with or without any additional consideration therefor. In case of such exchange the fact of the exchange shall be endorsed by the subagent upon the said two certificates of occupation or leases and recorded in his book of records, and the occupiers or lessees respectively shall be liable for the performance of all unperformed conditions of the certificates of occupation or leases received by them in such exchange, and shall be relieved of the performance of all conditions in the leases given up by them. An occupier and a lessee may not exchange with each other.

§ 223. The right of possession of a lessee shall, in addition to the condition set forth in section 225, be subject to the following special condition:

He or his successors shall continuously maintain his home upon the leased premises.

§ 224. If it shall appear at any time that the lessee has failed in the performance of the said condition, or has done such acts or permitted such circumstances to exist as constitute a virtual abandonment of the said premises as a home, the commissioner may, with or without legal process and without notice, demand, or previous entry, take possession of the demised premises and thereby determine the estate created by such lease.

§ 225. The right of possession of an occupier or lessee to the premises held by them respectively under a certificate of occupation or a homestead lease shall, in addition to the special conditions set forth in sections 217 and 223, be subject to the following conditions:

1. He shall pay the taxes assessed upon said premises within sixty days after the same are delinquent.

2. He shall perform any condition in such certificate of occupation or lease for the planting of trees, the protection of trees growing or to be planted on such premises, and any condition of such certificate of occupation or lease for the destruction of vegetable pests that may be on such premises or for the prevention of the future introduction of such pests thereon.

§ 226. The violation of any of the foregoing conditions shall be sufficient cause for the commissioner to take possession of the demised premises, with or without legal process and without notice, demand, or previous entry, and thereby determine the estate created by such lease.

§ 227. In case of the death of any occupier or lessee, all the interest

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of such occupier or lessee, any conveyance, devise, or bequest to the contrary notwithstanding in land held by such decedent by virtue of a certificate of occupation or a homestead lease shall vest in the relations of the decedent as follows:

1. In the widow or widower.
2. If there is no widow or widower, then in the children.
3. If there are no children, then in the widows or widowers of the children.
4. If there are no such widows or widowers, then in the grandchildren.
5. If there are no grandchildren, then in the fathers.
6. If there is no father, then in the mother.
7. If there is no mother, then in the brothers and sisters.
8. If there are no brothers and sisters, then in the widows or widowers of the brothers and sisters.
9. If there are no such widows or widowers, then in the nephews and nieces.
10. If there are no nephews or nieces, then in the widows or widowers of the nephews and nieces.
11. If there are no such widows or widowers, then in the grandchildren of the brothers and sisters.
12. If there are no grandchildren of any brother or sister, then in the Territory of Hawaii.

And all such successors, except the Territory of Hawaii, shall be subject to the performance of the unperformed conditions of such certificate of occupation, or lease, in like manner as the decedent would have been subject to such performance if he had continued alive.

Provided, however, that if a widow or widower in whom such interest shall have vested as aforesaid shall thereafter marry again and decease, leaving a widower or widow and a child or children of such first marriage surviving, the interest of the deceased shall vest in such child or children. And further provided, that in case two or more persons succeed together to the interest of any occupier or lessee, according to the foregoing provisions, they shall hold the same by joint tenancy so long as two or more shall survive, but upon the death of the last survivor, the estate shall descend according to the provisions of the first part of this section. And in case of such joint tenancy the continuous residence of any such tenants upon the premises shall be sufficient performance of the conditions of residence set forth in sections 217 and 223.

§ 228. In case of the death of an occupier or lessee, the interest of the successors shall not be liable to forfeiture during a period of six months from such death. If no successors to the deceased tenant take possession of the premises within a year from the death of such tenant, the premises shall thereupon vest in the Government.

§ 229. In case two or more persons succeed together to the interest of an occupier or lessee, any one or more of such persons less than the whole number may file in the office of the subagent an offer to the remainder of such persons to buy their interest in the premises or to sell to them their own interest therein at a stated price according to the proportion of the respective interest in question, and may deposit with the subagent the amount of such offered price in money, with a fee of ten dollars. The subagent shall thereupon notify the parties to whom such offer is made of the nature of the offer and order them to file with him their answer within sixty days whether they will buy or

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sell according to such offer. If the parties to whom such offer is made file with the subagent within sixty days of the time of their receiving such notification of their answer stating that they will sell their interest according to the terms of the offer, the subagent shall endorse the fact of such sale with the amount of the consideration on the certificate of occupation or the lease, as the case may be, and pay to such parties the amount of such consideration deposited with him according to their individual interest; and the interest of such parties shall thereupon vest in the parties making the said offer. The fact of such transfer shall be properly recorded in the official records of the subagent and endorsed upon the certificate of occupation or lease held by the occupier or lessee. If, however, the parties to whom such offer is made fail to answer within sixty days from the time of their being notified of such offer or within sixty days from the time the notice of such offer is mailed to their last known place or places of abode or shall answer within sixty days that they will buy the interest of the parties making such offer on the terms offered, but fail within sixty days after such notification to deposit the amount representing the value of such interest according to the terms offered, their interest shall vest in the parties making the offer and the amount of such consideration shall be paid by the subagent to them individually or their respective representatives upon application. In such case the fact of such transfer shall be recorded and endorsed as above provided.

But if the parties to whom such offer is made shall, within sixty days from the time of such notification, make answer to the subagent that they will buy the interest of the offering parties and shall deposit within sixty days with him the amount required for such purpose according to the terms of the offer, the subagent shall endorse and record the fact of such sale as above provided, and pay to the offering parties the said amount according to their individual interests; and the interest of the offering parties shall thereupon vest in the answering parties. In such case the consideration money deposited by the offering parties shall be returned to them.

§ 230. The limit of sixty days above provided in which parties shall answer shall date from the time the last person entitled to notification is notified in the manner above set forth. No transfer of interests in a certificate of occupation or a lease owned by two or more persons, as provided in section 229, shall be valid if any of the said persons are minors under the age of eighteen years unless such minors are represented by statutory guardians.

§ 231. Land held by two or more persons under a homestead lease shall not be subject to partition.

§ 232. In case the interest in any such certificate of occupation or lease should vest solely in a married woman or a minor under the age of eighteen years under the provisions of section 227, the conditions of residence set forth in sections 217 and 223 shall be satisfied respectively during coverture of such married woman, or during the time such minor is under eighteen years of age, by the residence of an agent.

§ 233. In case two occupiers or one occupier and one lessee should intermarry not less than twelve months after the date of the most recent certificate of occupation taken out by either of them, the said conditions of residence shall be satisfied by their residence on either of their holdings.

§ 234. Land held either under a certificate of occupation or under a homestead lease shall be liable to taxation as estates held in fee.

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§ 235. Certificates of occupation and homestead leases shall not require to be stamped.

§ 236. In case of a surrender by occupiers or lessees of their interest to the government, as provided in section 222, if all the conditions of the surrendered certificate of occupation or lease to be performed by the occupier or lessee up to the time of such surrender shall have been substantially performed, the persons so surrendering such interest shall be entitled to receive from the government the value of the permanent improvements on the premises surrendered, whenever such value shall be received by the government from a new tenant, according to the provisions of section 238, and the treasurer is hereby authorized to pay the amount of such valuation upon the requisition of the commissioner out of any funds available for such purpose.

§ 237. In case the interest of a married woman or a minor under the age of eighteen years, being the sole owner of a homestead lease under the provisions of section 227, shall be forfeited for nonperformance of condition of the certificate of occupation or lease when such forfeiture is due to such coverture or infancy, such owner shall be entitled to receive from the government the value of the permanent improvements on the forfeited premises, whenever such value shall be received by the government from a new tenant, according to the provisions of section 238, and the treasurer is hereby authorized to pay the amount of such valuation upon the requisition of the commissioner out of any funds available for such purpose.

§ 238. In case of the surrender, forfeiture, or escheat to the government of a homestead lease, the land held thereunder may be held open for settlement, charged with the value of the permanent improvements thereon, as a homestead lease, a right of purchase lease, or a cash freehold, or may be reserved for public uses in the discretion of the commissioner. If such premises are held open for settlement as aforesaid the unimproved value thereof and the value of the permanent improvements thereon shall be appraised separately. The appraisement shall be made by a board consisting of the subagent and another person to be appointed by the commissioner. Such appointed appraiser shall not be a person holding a government office. Said appraisement shall be subject to review by the commissioner, and the appraisement adopted by him shall be good for one year, after which time the premises may be appraised anew as aforesaid. If the premises shall be disposed of under the provisions relating to homestead leases or right of purchase leases, the new tenant shall pay for such permanent improvements in cash upon receiving his certificate of occupation or lease. But if such premises are held for settlement as a cash freehold they shall be offered at auction at the aggregate sum of the appraised value of the permanent improvements and the unimproved value thereof as an upset price.

PART VII.—RIGHT OF PURCHASE LEASES AND CASH FREEHOLDS.

§ 239. The commissioner of public lands, with the approval of the governor, is hereby authorized and instructed to cause to be surveyed and set apart from time to time suitable portions of public lands for the occupation of such persons as may desire to obtain holdings under this part of this act. Such lands shall be selected only from agricultural and pastoral lands, and shall be laid out in lots of not over one hundred acres in first-class agricultural land, not over two hundred acres in second-class agricultural land, not over two acres in wet land,

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not over six hundred acres in first-class pastoral land, not over twelve hundred acres in second-class pastoral land, and not over four hundred acres in mixed agricultural and pastoral land. Convenient roads as to grade and direction shall be surveyed connecting such lots with a public road.

APPRAISEMENT.

§ 240. Upon the completion of any such survey, a board of appraisers, consisting of the subagent and another person appointed by the commissioner, shall appraise the same at a reasonable market rate, and report such appraisement to the commissioner by a written statement clearly referring to the lots by number as laid out in the chart of the survey. Such appointed appraiser shall not be a person holding any other government office. And the surveyor shall furnish the commissioner with a copy of such chart, upon which is clearly marked in figures, within the lines defining each lot, the amount of the appraisement thereof in dollars and cents, and a similar copy to the subagent, provided that such appraisement may be altered by the commissioner. Such charts of survey shall be open to public inspection during business hours, without charge.

§ 241. The commissioner of public lands shall thereupon give public notice, in the English and Hawaiian languages, through newspapers and posters, and if he deem it advisable, in any other language in which newspapers in the Territory are published, and shall post such notice at the post-office and court-house of the district, declaring such lots to be open for occupation according to the provisions therefor in this part of this "chapter, or, in his discretion, declaring such lots to be open for occupation according to the provisions therefor in this part of this chapter, or according to the provisions of section 201 relating to special agreements of sale, at the option of qualified applicants."

QUALIFICATIONS OF APPLICANTS.

§ 242. Any person who is over eighteen years of age who is a citizen by birth or naturalization or who has declared his intention to become a citizen of the United States as required by law, who is under no civil disability for any offense, who is not delinquent in the payment of taxes, who has not made a false declaration in applying for land under this chapter, who does not own any agricultural land not classed as wet land, nor any pastoral land in the Hawaiian Islands, and who is not an applicant for any other interest in land under the provisions of this chapter, may apply for one of the said lots for his own sole use and benefit, either as a right of purchase lease or as a cash freeholder.

Provided, however, That any qualified person may apply for one lot of wet land in addition to land of any other description already applied for or acquired by him under this part of this chapter, where such wet land is in the neighborhood of such other land; and

Further provided, That any qualified person who owns less than one hundred acres of first-class agricultural land, or less than two hundred acres of second-class agricultural land, or less than six hundred acres of first-class pastoral land, or less than twelve hundred acres of second-class pastoral land, which is not subject to a condition of residence, and who owns in fee no other agricultural nor pastoral land,

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except wet land, shall be competent to acquire under the provisions of this part of this chapter so much additional land of the class already held by him as, together with such land, shall not exceed in the aggregate the above-mentioned maximum quantity for such class, or shall be competent to acquire additional land of some other description, except wet land, in the ratio of twelve parts of second-class pastoral land, six parts of first-class pastoral land, or two parts of second-class agricultural land to one part of first-class agricultural land, sufficient to take up such maximum quantity, relatively, according to the class of the new land applied for; and further provided that both husband and wife may not be applicants for holdings under this part of this chapter unless their marriage status has been affected by a decree of annulment, separation, or divorce.

RIGHT OF PURCHASE LEASES.

§ 243. All applications for right of purchase leases shall be made in person by the applicant at the office of the sub-agent during office hours, and shall include a sworn declaration substantially according to the form of Schedule A. The applicant shall pay to the sub-agent a fee corresponding in amount to six months' rent of the premises applied for, which fee shall be credited to him on account of rent if his application is successful, and if unsuccessful shall be returned to him. Upon receiving such application and such fee, the sub-agent shall endorse upon the application the day and hour of receiving the same and the receipt of said fee. In case two or more persons apply for the same lot, the one whose application is first received shall have the preference. No application not including a declaration of qualifications as above required and not accompanied with the said fee shall be received or considered.

§ 244. If the qualifications of the applicant are satisfactory according to the foregoing requirements, the sub-agent, with the approval of the commissioner of public lands, shall execute a lease in three parts in favor of the applicant, for the lot applied for, and shall deliver to the applicant one part of such lease, another part shall be filed with the commissioner of public lands, and the sub-agent shall keep the third on file in his office. The applicant on receiving such lease shall be designated the lessee, which shall also be the designation of any successors to his rights under the same. The receipt of such lease by the lessee shall be an acceptance and affirmation of the stipulations and conditions therein set forth.

CONDITIONS OF RIGHT OF PURCHASE LEASES.

§ 245. Such lease shall be made for a term of twenty-one years, to be reckoned from the next first day of April or October following the date thereof, and shall also include and require rent for the period between the date of the lease and such day, and shall be subject to the following conditions:

1. A yearly rental of eight per centum on the appraised value of the land, payable in equal parts half-yearly in advance on the first day of April and the first day of October of each year to the sub-agent.

2. The lessee shall, from the end of the first year of the said term to the end of the fifth year thereof, continuously maintain his home on such premises.

3. He shall before the end of the third year of the said term reduce

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to cultivation and have under cultivation not less than five per centum of such premises, and at the end of the fifth year of the said term reduce to cultivation and have under cultivation at one time not less than ten per centum of such premises, and plant and keep in good growing condition on the said premises an average of not less than ten timber, shade, or fruit trees per acre of the whole area if the same is classed as agricultural land; or if the same is classed as pastoral land he shall fence in the same. If the premises are classed as pastoral-agricultural land the foregoing alternative conditions shall apply, respectively, to the two kinds of lands.

4. He shall not assign his said interest under the said lease, or any part thereof, without the written consent of the commissioner. Provided that a lessee or lessees holding the whole interest in a right of purchase lease may at any time, when all the conditions of the lease to be performed by the lessee up to such time shall have been substantially performed, surrender such interest to the Government by delivery of such lease to the subagent with the intention of the holders to surrender the same clearly endorsed thereon and signed by them in the presence of the subagent. Any such surrender shall release the lessee from all further duty of performance of the conditions of the document surrendered, but no surrender shall be valid if one of the lessees is a minor under eighteen years of age, unless such minor is represented by a statutory guardian. And further provided that any such lessee over the age of eighteen years of age may assign his interest to his cotenant.

§ 246. The violation of any of the foregoing conditions shall be sufficient cause for the commissioner, with the approval of the governor, to take possession of the demised premises without notice, demand, or previous entry, and with or without legal process, and thereby determine the estate created by such lease.

§ 247. In case two or more persons become cotenants under any such lease by inheritance or otherwise, any of them may compel the remainder to buy or sell according to the provisions of section 229.

§ 248. At any time after the third year of the said term the lessee shall be entitled to a land patent from the Government conveying him in fee simple the land described in his lease, upon his paying to the Government the appraised value of the premises as set forth in such lease, if he has reduced to cultivation twenty-five per cent of said premises and has resided thereon not less than two years, and has substantially performed all other conditions of his lease.

CASH FREEHOLDS.

§ 249. All applications for cash freeholds shall be made in writing, or partly in writing and partly in print, at the office of the subagent, and shall include a sworn declaration substantially according to the form of Schedule A, and shall be accompanied with a fee amounting to ten per centum of the appraised value of the lot applied for, which fee shall be forfeited in case the applicant should fail to take the premises at the upset price in case there should be no higher bid therefor, and if the applicant should be successful such fee shall be credited to him on account of his first installment; but if there is a higher bid than the upset price and the applicant fails to obtain the premises, the said fee shall be returned to him.

No such application not including such declaration or not accompanied by such fee shall be considered. Upon receiving any such appli-

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cation and the said fee the subagent shall endorse upon the application the day and hour of receiving the same and the receipt of the said fee.

§ 250. Upon applications for cash freeholds the commissioner shall give notice through newspapers or posters, or both, in the English and Hawaiian languages, and, if he deem it advisable, in any other language in which newspapers in the Territory are published, of auction sales thereof at such times and places in the district as they shall decide, or at the executive building in Honolulu. Such notice shall specify the lot to be offered for sale, and the appraised value thereof as the upset price.

§ 251. If there are two or more applications and there is no bid above the upset price, the one whose application is first received shall have the preference. The subagent or any other person authorized by the commissioner may act as auctioneer at such sales without taking out an auction license.

§ 252. A purchaser at any such sale shall immediately pay one-fourth of the purchase price, and shall thereupon be entitled to receive a certificate which shall be termed a freehold agreement, and shall be executed in three parts, one of which parts shall be filed with the subagent, one part shall be delivered to the applicant, and the third filed with the commissioner of public lands. In case of a failure of such purchaser to immediately pay such one-fourth of such purchase price, the person acting as auctioneer shall declare the sale off and shall either knock down the premises to the next highest bidder, or shall put them up again forthwith, or shall withdraw them from the auction for the time being. The purchaser, upon receiving such freehold agreement, shall be designated the freeholder, which shall also be the designation of any successors to his rights under the same. Such receipt of freehold agreement shall be an acceptance and affirmation of the stipulations and conditions therein contained. Such freehold agreement shall authorize the freeholder to occupy and use the premises therein described and shall entitle him to a land patent for such premises at the end of three years from the date of the payment of such first installment, which shall be the date of the freehold agreement, if the following conditions shall then have been substantially performed:

1. Payment of the balance of the purchase price in equal installments, in one, two, and three years, respectively, from the date of the freehold agreement, with interest annually at the rate of six per centum: Provided, That the freeholder may pay such installment before it is due and thereby stop the corresponding interest.

2. Cultivation of not less than twenty-five per centum of the area of the said premises, and the planting and care of not less than an average of ten timber, shade, or fruit trees per acre, if agricultural land, at any one time before the end of the third year, or fencing in the same, if pastoral land, within such time: Provided, That if the premises are classed as pastoral-agricultural land, the foregoing alternative conditions shall apply, respectively, to the two kinds of land.

3. Maintenance by the freeholder of his home on such premises from the end of the first to the end of the third year.

4. He shall not assign or sublet, conditionally or otherwise, his interest or any part thereof under the freehold agreement without the written consent of the commissioner of public lands endorsed on such agreement; and

Further provided, That freeholders having the whole interest in a freehold agreement may at any time, when all the conditions thereof

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to be performed by the freeholder up to such time shall have been substantially performed, surrender to the Government such interest by delivery of the freehold agreement to the subagent, with the intention to surrender the same clearly endorsed thereon, and signed by them and duly attested. Such surrender shall release the freeholders from all further duty or performance of the conditions of the instrument surrendered. But no such surrender shall be permitted if any such freeholders are under the age of eighteen years, unless such minors are represented by statutory guardians; and

Further provided, That any freeholder over the age of eighteen may assign his interest to his cotenants.

5. Conditions for the prevention of waste, the planting of trees, or the protection of trees growing or to be planted on such premises, or for the destruction of vegetable pests that may be on such premises, or the prevention of the future introduction of such pests thereon.

6. He shall allow the agents of the government at all times to enter and examine the premises.

7. Payment of all taxes that may be due on account of the said premises.

§ 253. In case of default in the payment of any of the said installments for thirty days after the same are due, respectively, or failure of performance of any other of the said conditions, the commissioner, with the approval of the governor, may take possession of such premises without notice, demand, or previous entry, and with or without legal process, and thereby determine the estate created by such freehold agreement.

LAPSES, FORFEITURES, AND SURRENDERS.

§ 254. Upon the determination of a right-of-purchase lease by lapse of time or upon the forfeiture or surrender of such lease or a freehold agreement the commissioner may, in his discretion and within the limit of his authority, open the premises or any part thereof for settlement or reserve or dispose of the same in any manner or for any of the objects provided in this chapter. And if the same are disposed of under the provisions of part 7, they shall be reappraised, provided that in case of premises surrendered under a right-of-purchase lease or a cash freehold, if disposed of either under the provisions of part 6 or 7, the value of the permanent improvements and the unimproved value of the premises shall be appraised separately, as provided in section 238, and the incoming tenant shall pay for such improvements as therein provided, and the value of such permanent improvements shall, when received by the government as aforesaid, be paid to the surrendering lessees or freeholders, and the treasurer is hereby authorized to pay the amount of such valuation upon the requisition of the commissioner out of any funds available for such purpose.

PART VIII.—SETTLEMENT ASSOCIATIONS.

§ 255. In case six or more persons who are qualified to apply for right-of-purchase leases and cash freeholds under this chapter shall form themselves into a settlement association and apply for holdings in one block of land, the commissioner may, with the approval of the governor, cause to be surveyed lots in one block corresponding in number to the number of persons forming such association in agricultural or pastoral land or both, according to the provisions of this chapter.

§ 256. The provisions of this chapter relative to right-of-purchase

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leases and cash freeholds shall be followed in the settlement of such block of land and shall apply to all matters relating to the occupation thereof and the rights and obligations of the government and lessees and freeholders under such occupation, provided that the notice by the commissioner of public lands declaring such land open for settlement shall be directed to such settlement association and shall be in one language only; and further provided, that in case of the surrender or forfeiture of the holding of any member of such association, such holding, if declared open for settlement, shall be open to any applicant under the provisions of this part of this chapter.

§ 257. If any lot of such block of land shall be left for three months after such block is declared open for settlement without being taken up by any member of such settlement association, the same may be declared open for settlement by any applicant under the provisions of this chapter relative to right-of-purchase leases and cash freeholds, or may be disposed of in any other manner provided in this chapter, or may be reserved for public uses or otherwise, at the discretion of the commissioner.

§ 258. In case of a vacancy occurring in the membership of a settlement association by the death, resignation, or expulsion of a member who has not acquired a holding in such block, such vacancy may be filled by the association with the approval of the commissioner. But in no case shall any member of such association be allowed to take up more than one lot.

§ 259. An application of a settlement association for a block of land shall contain a list of the names, ages, nationality, and occupations of the members, whether married or unmarried, and the area which each member desires to acquire.

Part IX.—Olaa Reservation.

§ 260. Any person holding land individually or in conjunction with others, situate in the Ahupuaa of Olaa, district of Puna, on the island of Hawaii, under a lease from the commissioners of crown lands (not reserving rent for the first three or five years of such lease), shall at any time after the first payment of rent, which is hereby reduced for such leases to one dollar per acre annually in the case of all leases reserving a larger amount, upon the improvement of not less than fifteen per cent of the area of the land to be patented, to the satisfaction of the commissioner, which improvements shall include the bona fide cultivation of coffee or fruit, field or garden crops, or all or any of such crops, and payment to the commissioner of the unimproved value of the premises to be patented according to the appraisement stated in § 263, be entitled to receive from the Government a land patent for any portion of his leased premises, in one parcel, within two hundred acres in extent and including such improved portion, if all the conditions of such lease to be performed by such lessee up to such time shall have been substantially performed.

Provided, however, That condition five of such lease, for the purpose of making such lease good, shall be deemed to have been substantially performed when improvements or cultivation shall have been made on such premises to the aggregate value of two hundred dollars. No land patent, however, shall be issued for any portion of said premises until improvements or cultivation to the extent of two hundred dollars, in addition to the fifteen per cent above named, shall have been shown to have been made.

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Any such person, as aforesaid, whose lease covers less than two hundred acres of land and who has improved not less than thirty acres thereof, shall, upon fulfilling the above-mentioned requirements, have the privilege of purchasing an additional area, according to the appraisement stated in § 263, provided the aggregate acreage of his holding shall not exceed two hundred acres. No land patents shall be issued under the provisions of this section for any portion of such leased premises lying within one hundred and fifty feet from the Volcano road, nor for premises under any one lease with a front toward the Volcano road, if contiguous thereto, longer than the frontage of two fifty-acre lots as laid out by the Olaa survey.

Provided, however, That every land patent under the provisions of this section, for premises contiguous to and fronting toward the Volcano road, shall include a strip or strips connecting such premises with the Volcano road, and approximately at right angles thereto, which shall be located as the applicant shall desire, and the aggregate width of which shall not be over four hundred feet.

§ 261. Any corporation having, at the date of the approval of this act, the right of possession to land in said Ahupuaa of Olaa under a lease from the commissioners of crown lands, at any time after the first payment of rent, which is hereby reduced for such leases to one dollar annually per acre in the case of all leases, reserving a larger amount, upon the improvement of fifteen per cent of the area of the premises, to be patented, to the satisfaction of the commissioner, which improvement shall include the bona fide cultivation of coffee or fruit, field or garden crops, and payment to the commissioner of the unimproved value of the premises, to be patented according to the appraisement stated in section 263, shall be entitled to receive from the Government land patents for the whole or any portion of such premises, respectively, in one parcel, if all the conditions of such lease, to be performed by the respective lessees up to such time, shall have been substantially performed: Provided, however, That no land patents shall be isued under the provisions of this section for any portion of such leased premises lying within one hundred and fifty feet from the Volcano road.

Provided further, That every land patent issued under the provisions of this section, for premises contiguous to and fronting toward the Volcano road, shall include a strip or strips connecting such premises with the Volcano road, and approximately at right angles thereto, which shall be located as the applicant shall desire, the aggregate width of which shall not be over four hundred feet; and provided further, that the provisions of this section shall apply only to those of such corporations as are or may hereafter be incorporated under the laws of the Territory of Hawaii.

§ 262. Payment of the purchase price of lands patented under sections 260 and 261 shall be made as follows: One-fourth immediately upon a successful application for the right to purchase the lands specified, and the balance in equal installments in two, four, and six years, respectively, from the date of such application, with interest annually at the rate of seven per centum, provided that the applicant may pay any such installment before it is due, and thereby stop the corresponding interest. The premises thus sought to be patented shall, from the date of such application, accompanied by one-fourth of the purchase price, be free from the stipulations of such crown lease, which shall, however, remain in full force as to the remainder of the premises described therein. Provided, however,

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that the remainder of the premises held under such lease may, with the approval of the commissioner, be surrendered, and provided further, that the provisions of this section shall apply only to those of such corporations as are or may hereafter be incorporated under the laws of the Territory of Hawaii.

§ 263. The land covered by the crown leases above referred to is hereby appraised, as follows:

The first line of fifty-acre lots nearest the Volcano road, according to the Olaa survey, six dollars per acre; the second line of fifty-acre lots, four dollars per acre; all other lots, three dollars per acre.

§ 264. The land exempted from sale along the Volcano road by sections 260 and 261 is hereby reserved as a permanent park, to be devoted to forest growth and other features of park improvement, and no part of the same shall be sold or leased by the commissioner without the consent of the governor nor without first offering the same to the owner of the land immediately in the rear upon the terms specified in sections 262 and 263.

PART X.—PUUKAPU, KAIMU, AND WAIAKOLEA RESERVATIONS AND NATIVE RESERVATIONS OF OLAA.

§ 265. Any person holding land situate in said Ahupuaa of Olaa under a lease from the commissioners of crown lands not reserving rent for the first five years of such lease or situate in the Ahupuaas of Kaimu and Waiakolea in said district of Puna, or in the Ahupuaa of Puukapu, in the district of South Kohala, on said island of Hawaii, under a lease from the crown commissioners for a term of thirty years, may at any time after the first payment of rent, when all the conditions of such lease to be performed by the lessee previous to such time shall have been substantially performed, receive from the subagent, upon applying therefor and paying to him the requisite deposit money, a certificate of occupation, a right of purchase lease, or a freehold agreement, at the option of the applicant, for the premises described in such crown lease. Upon receipt of such certificate of occupation, right-of-purchase lease, or freehold agreement by such person, the said crown lease shall be void.

§ 266. Under the provisions of section 265 the deposit money upon application for a certificate of occupation shall equal twenty-five cents for each acre of the premises under consideration; upon application for a right-of-purchase lease, the deposit money shall equal six months' rent of the premises under consideration, which shall be credited to the applicant on account of rent if the application is successful; upon application for a freehold agreement, the deposit shall correspond to one-fourth of the purchase price of the premises under consideration, and shall be credited on account of the purchase if the application is successful. If any of such applications are unsuccessful the deposit money shall be returned to the applicant.

§ 267. The land covered by the said crown leases in said Olaa, Kaimu, Waiakolea, and Puukapu is hereby appraised at two dollars and a half an acre for the purpose of the foregoing provisions for furnishing the lessees thereof right-of-purchase leases and freehold agreements. Such appraisement shall fix the value of land taken under freehold agreements without an auction sale.

§ 268. Except as above provided, the general provisions relating to homestead leases, right-of-purchase leases, and cash freeholds shall apply to the status of the said parties, securing such holdings, respect-

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ively: Provided, That any continuous residence performed by such parties under the said crown leases shall be credited to them in like manner as if the same had been performed under the certificate of occupation, right of purchase leases or freehold agreement so obtained by them, respectively, as performance or part performance of the residence condition of such instruments.

PART XI.

§ 269. From and after the publication of this act no land shall be opened for settlement under the provisions of chapter 87 of session laws of 1892, entitled "An act to consolidate and amend the law entitled 'An act to facilitate the acquiring and settlement of homesteads,' otherwise known as the homestead act," which act shall, however, remain in force in relation to such lands as have been already taken up by settlers.

§ 270. An act entitled "An act to create a sinking fund," approved December 31st, 1864, and an act entitled "An act to relieve the royal domain from encumbrances and to render the same inalienable," approved January 3rd, 1865, are hereby repealed. Sections 36, 39, 40, 42, 43, 44, 45, 46, and 47 of the civil code, chapter 44 of the laws of 1876, chapter 5 of the laws of 1878, chapter 87 of the laws of 1892, and act No. 48 of the laws of the provisional government of the Hawaiian Islands, are hereby amended to conform to the provisions of this act.

REAPPRAISEMENT.

§ 271. The commissioner of public lands is hereby authorized to cause a reappraisement to be made of such lots taken up under the homestead acts of 1884 and 1892, as may, in his opinion, have been overvalued in the original appraisement, and are further authorized to accept payment for the same on the basis of such reappraisement.

§ 272. Such reappraisement shall be made by the subagent of the district in which the land is situated and another person appointed by the commissioner, who shall not be a person holding any other government office; but such reappraisement shall not apply to any lot upon which an amount has been paid in excess of the reappraised value, and such lots shall be valued at the amount already paid in: Provided, however, That any such reappraisement may be altered by the commissioner.

SCHEDULE A.

Form of declaration of application for homestead leases, right of purchase leases, or cash freeholds.

TERRITORY OF HAWAII, }
ISLAND OF——— } *ss.*

I, ———, being sworn, say that I am over eighteen years old; that I am a citizen of the United States (or that I have declared my intention to become a citizen of the United States as required by law); that I am under no civil disability for any offense; that I am not delinquent in the payment of taxes; that I have made no false declaration in applying for land under land act, 1895; that I am married (or unmarried); that I do not own land in the Hawaiian Islands not classed as wet land (if married, that wife or husband does not own such land; or if an owner of such land and an applicant for

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enough more land as a right of purchase leasehold or a cash freehold to make up, with the land already held by him, the maximum quantity as allowed and provided by section 58, land act, 1895, that he owns such and such areas of such and such classes); that besides the land now applied for I am not an applicant for any interest in land under land act, 1895 (if married, that the wife or husband is not such an applicant), and that I am applying for the said land solely for my own use and benefit.

NOTE TO CHAPTER 17.

§§ 185-270 are S. L., 1895. Act 26 amended as follows: § 201 by S. L. 1896, act 78; §§ 188, 194, 204, 211, 214, 239, 241, 246, 253, 255, 256, 257, by S. L., 1898, act 42; §§ 271-272 are S. L. 1896, act 47.

CHAPTER 18.

FENCING.

§ 273. That the superintendent of public works shall, upon the petition of twenty-five owners of land in any taxation district of this Territory, appoint three persons residing on the island where such district is situated, to be commissioners of fences for that district. Such commissioners shall hold office during good behavior; and the superintendent of public works shall fill all vacancies occurring in their number from death, resignation or otherwise.

§ 274. It shall be the duty of said commissioners, when called upon by any person or persons desirous of fencing their land, or who having fenced their lands, desire to provide for the maintenance of the fence, to give public notice of the same, and to appoint a day upon which they will meet all parties interested, or their agents, upon the land; to pass over and view the line of such fence; to decide equitably on the kind of fence to be built by the owners of adjoining lands, and the share which each owner shall build or maintain, designating the time within which the work shall be done, and to decide all disputes arising between the parties interested in relation to the fence.

§ 275. In case any party shall refuse or neglect to build or maintain the portion of any fence assigned to him by the commissioners, the same may be done by the aggrieved party in the manner directed by the commissioners, and he shall be entitled to recover the expenses thereby incurred, as the same shall be assessed by said commissioners, a certified copy of whose assessment filed with any district magistrate of the district shall entitle the party to judgment and execution for the amount assessed as in civil suits.

§ 276. In all cases where, in the opinion of the commissioners, it is expedient to establish a fence between adjoining lands, either from the nature of the land, the scarcity of fencing materials, or the conflicting rights of landowners, said commissioners shall, upon the application of either of such owners, decide how many animals each shall be at liberty to pasture upon his land, under a penalty to be specified by the commissioners, a certified copy of whose decision, filed with any district magistrate of the district, shall, upon satisfactory proof of a violation thereof, entitle the aggrieved party to judgment and execution as in civil cases, for so much of the penalty as such justice shall deem just.

§ 277. Any party deeming himself aggrieved by a decision of the fence commissioners, or of the district magistrate, under the provi-

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sions of this chapter, may appeal therefrom to the circuit court of the island, which court shall hear and determine the case; provided, however, that any parties desirous of so appealing shall give notice of the same to the commissioners or to the district magistrate, respectively, within five days after the rendition of their decision.

§ 278. The fence commissioners shall be entitled to demand and receive for their services two dollars each for every case acted upon by them, and five cents per mile for all necessary travel in the performance of their duty, to be paid by the party applying for their intervention.

§ 279. This law shall not be so construed as to allow any person owning lands adjoining Government lands to compel the Government to join in the cost of erecting a fence on the boundary line between such lands. But the Government or any lessee of Government lands, with the consent of the governor, shall have the same right herein accorded to other landowner to compel action according to the terms of this chapter, by any person owning land adjoining such Government land, or by any lessee of adjoining Government lands.

NOTE TO CHAPTER 18.

§§ 273–278 are act Feb. 14, 1859, C. L., p. 496. § 279 is S. L., 1896, act 42.
Cases in Hawaiian Reports: Mendonca v. Haupu, 4 Haw., 255; Gonveia v. Loka, 5 Haw., 286; Lishman v. Perry, 7 Haw., 266.

CHAPTER 19.

SETTLEMENT OF BOUNDARIES.

§ 280. It shall be the duty of the governor of the Territory to appoint one or more commissioners of boundaries to hold office during his pleasure; and he shall have power, with such approval, to fill vacancies caused by death, removal, or other cause. There shall not be more than one commissioner for each judicial circuit, and the same person may be appointed for one or more circuits.

§ 281. All owners of Ahupuaas and portions of Ahupuaas, Ilis and portions of Ilis, and other denominations of lands within the Hawaiian Islands, whose lands have not been awarded by the land commissioners, patented or conveyed by deed from the King or Government, by boundaries decided in such award, patent, or deed, may file with the commissioner of boundaries for the circuit in which the land is situated an application to have the boundaries of said land decided and certified to by said commissioner or his successor in office. The application shall state the name of the land, the names of the adjoining land or lands, and the name of the owners of the same where known, and it shall also contain a general description, by survey or otherwise, of the boundaries as claimed.

§ 282. It shall be the duty of the commissioner, on receipt of such application as above provided, to notify the owner or owners of the land, and also those of the land adjoining, of the time when he will be prepared to hear their case. Further, it shall be the duty of the commissioner to advertise for not less than three weeks in at least one English and one Hawaiian newspaper a notice of the locality to be adjudicated on and the date and place of hearing. The commissioner shall receive at such hearing all the testimony offered; shall go on the ground when requested by either party, and shall endeavor otherwise to obtain all information possible to enable him to arrive at a just

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decision as to the boundaries of said lands. Upon giving a decision, the commissioner shall therein describe the boundaries decided on by survey, by natural topographical features, or by permanent boundary marks, or partly by each; and he shall have the power to order such surveys and marks to be made or erected as he may consider necessary, at the expense of the parties in interest, but he shall in no case alter any boundary described by survey in any patent or deed from the King or Government, or in any land commission award.

§ 283. Any party deeming himself aggrieved by the decision of the commissioner may appeal therefrom to the supreme court within thirty days from the rendition of the decision and within said period shall pay all costs accrued and shall deposit with the commissioner a good and sufficient bond to the clerk of the supreme court, in the sum of one hundred dollars, conditioned for the payment of costs further to accrue in case of defeat: Provided, however, That any land owner absent from the Territory and not represented by an authorized agent within the Territory shall have the right of appeal for one year from the rendition of said decision.

§ 284. Whenever any person shall appeal, as provided in the last preceding section, it shall be the duty of the commissioner to transmit to the clerk of the supreme court a copy of the record and of his decision, together with any exhibits filed and the bond for costs to accrue. The supreme court may permit the introduction of new evidence which could not with due diligence have been obtained before, and its decision shall be final and binding.

§ 285. Each commissioner shall have power to administer oaths, to punish contempts, to grant adjournments, to subpœna and compel the attendance of witnesses, and the production of books and papers, to issue execution for costs and generally to exercise the same authority in regard to his special jurisdiction as is by law conferred upon district magistrates.

§ 286. The commissioner of public lands is hereby forbidden to issue any patent from and after the passage of this act, in confirmation of an award by name, made by the commissioners to quiet land titles, without the boundaries being defined in such patent, according to the decision of a commissioner of boundaries, or the supreme court, on appeal.

§ 287. Each commissioner of boundaries shall keep a record of his proceedings in books, to be furnished him by the commissioner of public lands, which books, when filled, shall be returned to the commissioner of public lands.

§ 288. The certificates of each commissioner shall be made on stamped paper, furnished by the commissioner of public lands, and each commissioner of boundaries shall collect and account to the commissioner of public lands, for the benefit of the public treasury, one dollar for each stamped certificate issued by him.

§ 289. Each commissioner of boundaries shall, within thirty days after issuing a certificate of boundaries, deposit a certified copy thereof in the office of the commissioner of public lands.

§ 290. All applications on file with any commissioner appointed under the act to facilitate the settlement of boundaries, approved on the 22d day of June, 1868, and all records in the possession of any said commissioner, shall be immediately transferred to the commissioner having jurisdiction under this act.

§ 291. Each commissioner shall receive the sum of ten dollars for each and every day he shall be employed in settling boundaries and

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his traveling expenses in viewing the *locus in quo;* and in all cases he shall receive two dollars for each certificate granted, fifty cents for every hundred words contained in the description in such certificate, and twenty-five cents for every hundred words contained in the record of the testimony in the case.

§ 292. The costs in each case shall be borne by the petitioner or respondent, or shall be apportioned between them, as equity and justice may require, in the judgment of the commissioner, subject to appeal as herein provided.

NOTE TO CHAPTER 19.

§§ 280-292 are L. R., act 14.

CHAPTER 20.

ROYAL PATENTS ON LAND COMMISSION AWARDS.

WHEREAS large numbers of ahupuaas and ilis of land in this Territory were awarded by the commissioners to quiet land titles, by name only, and not by survey or defined boundaries; and whereas the Government commutation in many instances is not paid nor the boundaries of such lands certified to; and whereas in many cases the original holders of such awards have deceased, or the title to the said lands, or to portions of said lands, has passed into other hands: Therefore,

Be it enacted, etc.:

§ 293. Every land patent hereafter issued upon an award of the board of commissioners to quiet land titles shall be in the name of the person to whom the original award was made, even though such person be deceased or the title to the real estate thereby granted have been alienated; and all land patents so issued shall inure to the benefit of the heirs and assigns of the holder of such original award.

§ 294. The commissioners of boundaries provided for by chapter 19 shall receive and hear any and all applications for settlement of boundaries of portions of ahupuaas, ilis, or other denominations of lands situated within the jurisdiction of such commissioners, and shall determine upon the same agreeably with the provisions of the said chapter.

§ 295. Upon presentation to the commissioner of public lands of a certificate of a commissioner of boundaries defining the boundaries of a portion of an ahupuaa, ili, or other denomination of land, as by section 294 provided, the said commissioner shall cause an appraisement to be made of the unimproved value of the said portion of land; and upon payment to the commissioner of public lands of the Government commutation in the said portion of land, upon the appraisement as above provided, the said commissioner shall cause to be issued a land patent for the said portion of land, which said land patent shall define the boundaries of said portion of land.

NOTE TO CHAPTER 20.

§§ 293-295 are S. L. 1872, Ch. 21. C. L. p. 532.
Cases in Hawaiian Reports: Brûnz *v.* Minister, 3 Haw., 787.

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CHAPTER 21.

HIGHWAYS AND BRIDGES.

§ 296. The superintendent of public works shall be, and is hereby, charged with the superintendence and management of the internal improvements of the Territory.

§ 297. The members of the road boards of the several districts of the Hawaiian Islands as at present constituted shall, until otherwise provided by law, remain in office and continue to perform the duties prescribed by law, subject to provisions hereinafter contained. Provided, however, that the provisions of sections 293–309 shall not apply to the district of Kona, island of Oahu, the road board for said district of Kona being hereby abolished.

§ 298. The superintendent of public works may at any time, in his discretion, remove from office any member or members of such road boards, and shall have power to fill any vacancies caused by death, resignation, or removal.

§ 299. The superintendent of public works shall appoint a road supervisor for the district of Kona, island of Oahu, who shall be under the supervision and control of the superintendent of public works, and shall receive such compensation for his services as shall from time to time be appropriated by law for said district of Kona. The said superintendent shall have the power, in his discretion, to remove the road supervisor thus appointed and fill the vacancy by new appointment.

Such road supervisor shall have the authority, subject to the approval of the superintendent of public works, to expend the road taxes and moneys appropriated by the legislature for said district of Kona.

§ 300. The road boards shall have the entire charge and control of the public labor on all roads, bridges, and public highways within their respective districts, and shall expend the road taxes and moneys appropriated by the legislature in making and repairing such roads and bridges, at such times and in such amounts as the respective boards, or a majority of the members thereof, may decide. The respective road boards shall be, and hereby are, authorized to employ such overseers and clerical and other assistance as may be necessary.

§ 301. The chairman of each of said road boards shall, before entering upon the duties of his office, file in the office of the superintendent of public works a bond, with sufficient sureties, to the superintendent of public works in a penal sum, to be fixed by the superintendent of public works, conditioned for a faithful disposition of and accounting for the road moneys which may be paid to him or his order.

§ 302. A full record shall be kept by the respective road boards of all business transacted at any meeting and of the work done in the district.

Full accounts shall also be kept of all moneys received, showing the source from whence derived, and of all moneys paid out, showing the locality for which expended, whether for labor or material, and the persons to whom paid. Such records and accounts shall be opened to the inspection of any taxpayer, resident in the district, at the quarterly or other meetings of the board.

§ 303. All road taxes shall be paid into the public treasury, and the amount so paid in from each district shall be a special deposit in the treasury to the credit of such district, to be paid out only by draft

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through the office of the superintendent of public works, upon the order of the chairman of the road board, which order shall also be countersigned by one of the other members of said road board. The treasurer shall, under no circumstances, allow such special deposit, or any part thereof, to be used for any other purpose than to pay the drafts which may be drawn by the superintendent of public works upon the order as hereinbefore provided.

§ 304. The chairman of each road board shall at the end of each quarter send to the superintendent of public works a detailed statement of the work done in his district during the quarter, and also a detailed financial statement, setting forth all receipts and expenditures, accompanied by vouchers for all expenditures.

§ 305. The superintendent of public works may at any time remove any member of such road boards for failure or neglect to properly perform the duties of his office, publishing the reasons for such removal, if requested to do so by the person so removed. Upon the petition of twenty-five or more taxpayers of any district making charges against any member of any road board and asking for his removal, the said superintendent shall cause said charges to be investigated; and if, upon investigation, it shall appear that such member of such road board shall have failed or neglected to properly perform the duties of a member of the road board, the superintendent of public works shall remove him. All vacancies shall be filled by appointments of the superintendent of public works.

§ 306. All road taxes shall be paid into the public treasury, and the amount so paid in from each district shall be a special deposit in the treasury to the credit of such district, to be paid out only by drafts through the office of the superintendent of public works upon the order of the road supervisors, which order shall also be countersigned by the chairmen of the road boards. The treasurer shall under no circumstances allow such special deposits, or any part thereof, to be used for any other purpose than to pay the drafts which may be drawn by the superintendent of public works upon the orders as hereinbefore provided.

§ 307. The road supervisor shall at the end of each quarter send to the superintendent of public works a detailed statement of the work done in his district during the quarter, and also a detailed financial statement, setting forth all receipts and expenditures, accompanied by vouchers for all expenditures.

§ 308. The superintendent of public works shall render such assistance as may be required by the respective road boards in designing and making specifications for bridges or the execution of any engineering work.

§ 309. In case the road-tax money for any district shall be insufficient to keep the roads of such district in proper repair, the chairman of the road board for such district shall report such fact to the superintendent of public works and make a statement of estimated requirements; and the superintendent of public works shall from time to time authorize such chairman to draw upon the office of the superintendent of public works for such sums as the condition of the treasury will warrant, charging the same to such appropriations as may be available for such purpose.

§ 310. Any new roads or bridges, the construction of which shall have been provided for by appropriations outside of the road taxes, may be constructed by the superintendent of public works without reference to the district road boards.

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§ 311. In the event of the failure to elect a road board in any taxation district, or of there being no duly qualified board for any reason whatsoever, the superintendent of public works may appoint three competent residents of such district, who shall act as and be the road board of the district until the next general election.

NOTE TO CHAPTER 21.

§ 296 is C. L., § 167. §§ 297-309 are P. G., act 65. §§ 300-304 are S. L., 1892, ch. 33. § 305 is S. L., 1887, ch. 9, § 7. §§ 306-307 are S. L., 1890, ch. 82. §§ 308-309 are S. L., 1887, ch. 9, §§ 10-11. §§ 310, 311 are P. G., act 14. Penalty for violation of § 306, see Penal Laws.

Cases in Hawaiian Reports: High v. Govt., 8 Haw., 549; Dillingham v. Govt., 9 Haw., 102.

CHAPTER 22.

OPENING, IMPROVING, AND CLOSING HIGHWAYS.

DEFINITIONS.

§ 312. In this chapter whenever the following words occur, or may be used, they shall have the meaning described by this section unless the context clearly prohibits:

"Superintendent" shall refer to and mean the superintendent of public works of the Territory of Hawaii for the time being.

"Chief sheriff" shall refer to and mean the chief sheriff of the Territory of Hawaii or any duly authorized deputy.

"Sheriff" shall refer to and mean the sheriff of the island on which any improvement is made or proposed, or his duly authorized deputy.

"Highway" shall refer to, include, and mean any road, alley, street, bridge, way, court, lane, place, and trail whether now or hereafter laid out or built by the Government, or by private parties and dedicated or abandoned to the public and in general use.

"Improvement" and "improving" shall refer to, cover, and include any opening, altering, widening, locating anew, changing, straightening, extending, closing, and paving of a highway.

"Commissioners" shall refer to and mean the commissioners appointed to appraise damages, and assess betterments in any proceeding under this chapter.

"District" shall refer to the judicial circuit in which any proceedings under this chapter are had.

"Proceedings" shall refer to and mean acts or things done under this chapter.

INITIATION OF PROCEEDINGS.

§ 313. The superintendent is hereby authorized and empowered of his own motion, or upon the petition of forty or more taxpayers of any district to the superintendent, to institute and conduct to the end all proceedings relative to the opening, improving, or closing of any highway, provided that upon such petition of taxpayers, the superintendent shall institute proceedings as provided in section 315.

§ 314. Every petition by taxpayers for the opening, improving, or closing of any highway shall be signed by the petitioners and substantially set forth the nature of the work proposed, the route thereof, over what lands, with the names of owners, tenants, occupants, or agents thereof, if known, otherwise to be indicated as unknown; and also the necessity and advantages of the proposed work or improvement, and

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who of the owners or parties with interests consent thereto, and any other matter necessary to an understanding of the work proposed; and shall conclude with a prayer for the appointment of a jury to decide upon the propriety of the work proposed; a map or diagram shall accompany the petition showing location of property of abuttors and of owners, and the work proposed as nearly as possible.

PROCEEDINGS.

§ 315. Upon the petition of forty or more taxpayers of any district to the superintendent that a highway be opened, improved, or closed, or if it shall appear to the superintendent in any other way that such course is advisable, the superintendent shall request any judge of a court of record to select a list or panel of twenty-four names from among the legal voters of the district in which the improvement, opening, or closing of the highway is contemplated.

Such judge shall direct the chief sheriff or the sheriff to draw a jury of six disinterested persons, none of whom, however, shall have signed any petition in the matter, from such list to visit and inspect the locality of such proposed improvement, opening, or closing, and to decide upon the propriety of the work or measure proposed and to report thereon.

Provided, however, That the superintendent or the road authorities shall have power and authority to alter and change and improve any highway where the character of the place, the condition of the land and highway or the act of God, or unavoidable circumstances require the same, if no private rights are involved, or if the parties interested shall consent thereto in writing, and in such case no jury or proceedings shall be necessary or required.

§ 316. The chief sheriff or sheriff shall forthwith subpœna the jurors drawn as aforesaid to attend at a time and place (which place shall be at or near the locality of the proposed improvement) by him fixed to discharge their duties in the matter, and shall then inform the jurors of their duties.

In case any juror shall not serve or shall fail to appear and serve or be incapacitated, a new juror shall be drawn from said list or panel by the chief sheriff or sheriff and subpœnaed. If any juror duly subpœnaed to attend shall without cause fail to attend at the time and place fixed, he shall be punished in the discretion of the judge of the court who selected the list or panel in the same manner as provided in section 1352 for trial jurors.

§ 317. The chief sheriff or sheriff shall also give written or printed notice by publication or by posting in at least three conspicuous places in the locality of the proposed improvement, and by posting at least one notice in a public conspicuous place in the district, notifying all concerned of the time and place of the meeting of the jury and in substance the proposed work or improvement, at which time and place all concerned may appear and be heard by the jury in relation to the proposed improvement.

§ 318. Upon the day appointed by the chief sheriff or sheriff, he shall take charge of and accompany the jury to the locality of the proposed improvement, and the jury shall thereupon inspect such locality and ascertain as far as possible, by such inspection and by examining residents and others to be effected thereby, provided any such persons may desire to make statements, and by any other means in their power, all such facts as may have a bearing on the matter. The jury shall

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within six days after their visit and inspection report in writing thereon. Provided, however, that the chief sheriff or sheriff may grant an extension of time for good cause. They or a majority of them may recommend or disapprove the proposed improvement, or they may recommend such change or alteration therein as they shall deem proper. The report shall be signed by all of the jury, such as disagree with any finding so stating, and the chief sheriff or sheriff shall forthwith file such report with the superintendent.

§ 319. Any rejection or disapproval by the jury as provided in section 318 shall not be a bar for other petitions thereafter concerning the same subject-matter.

§ 320. The superintendent is hereby authorized and empowered to take action in accordance with such decision of the jury.

§ 321. The superintendent shall take proceedings upon the report of the jury made as provided in section 318 within one year thereafter, or failure so to do shall be deemed an abandonment of the proposed opening, improving, or closing.

NOTICES TO BE POSTED—CLAIMS TO BE FILED.

§ 322. After such proposed work be determined upon, the road authorities of the locality in which action is proposed to be taken under and by the direction of the superintendent shall cause notices to be posted in at least four conspicuous places along the line of such proposed improvement, advertising in substance the fact and calling on all persons interested to file their claims for damages within a fixed time with the nearest circuit judge or magistrate, who shall be named in such notice.

§323. The road authorities of the district in which action is proposed to be taken shall also give notice to the owners, occupants, and abutters of premises along the line of the proposed improvement, if known and resident within the territory and can be served, whose property may be taken for the proposed improvement.

It shall be deemed good and sufficient service on the parties in interest in any land or premises if a notice be served upon the owner or the agent of the owner, or tenant or occupant, or if they be unknown or can not be served by reason of nonresidence or other cause, then a notice posted at a conspicuous place on the land, or left at the owner's, occupant's, tenant's, or agent's residence shall be sufficient.

The notice may be general in terms and addressed to all persons interested.

They shall also send a notice to the judge or magistrate having jurisdiction.

§324. It shall be the duty of such judge or magistrate to forward all such claims to the superintendent immediately after the expiration of the time fixed by such notice for such claims to be filed.

§325. On the receipt of such claims, if he shall decide to prosecute such work, the superintendent shall first endeavor to agree with the claimants upon the amount to be paid them or to compromise with them.

APPOINTMENT OF COMMISSIONERS

§326. In case of failure to agree with the claimants, the superintendent shall appoint three disinterested persons to act as commissioners of appraisement and assessment, to assess and award the value of the private property or the damage likely to be sustained by the

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owner, tenant, or occupant of any land or property to be taken for the proposed improvement, and to assess benefits or betterments hereinafter provided.

The commissioners shall notify their acceptance of appointment to the superintendent.

§327. On the acceptance of the commissioners, the superintendent shall deliver to the commissioners all claims not agreed upon or compromised, together with maps or diagrams of the proposed improvement, and a description as far as possible sufficient to identify the proposed opening, closing, or improvement and the property or land to be taken for the same, and also the names of all owners, occupants, tenants, or agents of the land if known, otherwise to be indicated as unknown, and also such blanks as may assist them, and all necessary information.

§328. The commissioners shall send notices to all claimants to appear at a time and place fixed, to be heard upon their claims and present evidence as to damages. Such notices may be signed by the chairman only. Service of notice made by the commissioners, or some one by them appointed in the same manner as service is provided in section 323 to be made by the road authorities, shall be deemed sufficient and good service.

DECISION.

§329. The commissioners shall consider the evidence and arguments that may be presented to them and view the premises and proposed work, and shall by their decision determine the price to be paid by the government for such private property, or for such damages, as the case may be. The commissioners may, in their discretion, where there are buildings, fences, or water pipes upon the land proposed to be taken, make their decision in the alternative concerning such property; stating, first, that the claimant may move such property, for which he shall be paid a fixed sum, to be stated in the decision; or, second, that the government may move such property to a place to be stated in the decision; or, third, that the claimant may abandon such property to the government, for which he shall be paid a fixed sum, to be stated in the decision.

The claimant may elect, within twenty days after the decision is rendered, which alternative he will accept, and shall notify the road authorities having charge of the improvement of such election. In case of failure on the part of the claimant to make such election within the time aforesaid, the superintendent or road authorities may make such election and proceed accordingly.

In case any property shall be deemed by the commissioners to be so far destroyed or injured by the improvement as to practically destroy the property for the claimant, they may also determine the value of the whole premises of the claimant, and the claimant shall have the option to surrender the whole premises to the Government on payment of such valuation, and the same shall thereupon be Government property absolutely and in fee simple. Such election shall be made in writing and filed with the superintendent within twenty days after the decision is rendered, otherwise the superintendent may make such election and proceed accordingly.

In considering and arriving at the amount of damage accruing to any claimant, the commissioners shall take into consideration the location and area of the lot taken, and the portion remaining, and the

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cost and feasibility of removing any buildings located upon the property taken to the remainder of the land of such claimant.

§ 330. The commissioners shall first hear and decide all awards for damages to claimants, and after such decision is filed, as hereinafter directed, they shall proceed to hear and decide upon the assessments of benefits or betterments, as hereinafter provided. Their first decision as to damages shall be marked as decision "A," and the second, as to benefits or betterments, as decision "B."

§ 331. The decision "A" of the commissioners shall be in writing or printing, signed by the commissioners, and include all awards to claimants, with a concise location of the premises and the names of the awardees. A majority of the commissioners may sit and hold hearings, and may render such decision and it shall be sufficient.

The commissioners shall keep minutes of their proceedings, and shall file the same with the superintendent, and shall also serve a certified copy, signed by the chairman, of their decision "A" on the superintendent and on each of the claimants.

TITLE VESTED IN GOVERNMENT UPON DELIVERY OF DECISION AND TENDER OF AWARD.

§ 332. Upon delivery of the decision "A" to the claimant the title of the land or property shall vest in the Government, absolutely and in fee simple, without further conveyance. Provided, however, that the superintendent or Government shall not take possession of the same until payment be made or tendered to the claimant of the price determined by the commissioners, or by agreement or compromise, unless such claimant shall, in writing, consent thereto, or the price determined be, in the case of disputed title, deposited in the supreme court of the territory.

And provided further, That in case any assessments for benefits or betterments be made as hereinafter provided, the superintendent may deduct the amount of the same from the total amount of award of decision "A" to each individual, and a tender of the balance shall be a good and sufficient tender.

DISPUTED TITLE.

§ 333. In case the title of any claimant be in dispute, the superintendent may deposit the price determined or awarded in the supreme court, to be paid out by such court to the party entitled thereto, as it shall determine.

The claimant or party claiming title may, by petition to such court, claim such price deposited; and the court shall have jurisdiction to order such notices and process to be issued and given, proceedings had and acts done as equity and justice may require, and to it seem meet. Such proceedings shall be in the nature of proceedings in equity, and as simple and concise as possible.

The deposit of such price in such court shall release the government and superintendent from any responsibility to any claimant or claims of any one for the property taken or price awarded.

SUPERINTENDENT MAY COMPROMISE CLAIM.

§ 334. The superintendent shall have the power to compound and compromise with any claimant, owner, or party interested, either be-

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fore or after any such decision of the commissioners, in any way he may deem most advantageous to the government, and for that purpose may substitute other land in lieu of that taken. He shall also have the power to pay any awards or compromises out of any moneys appropriated by the legislature for such purposes.

TIME FOR REMOVAL OF PROPERTY.

§ 335. The commissioners shall grant reasonable time for any person interested to remove timber, trees, buildings, fences, and other property (for which no payment for damages are awarded), and if the same shall not be removed within that time (unless the time be extended by the commissioners or the superintendent), they shall revert to the benefit of the government of Hawaii, and the owners shall be deemed to have relinquished and released all their rights and claim thereto for the benefit of the government of Hawaii.

BENEFITS AND BETTERMENTS.

§ 336. The real estate and rights and interests therein, abutting on or near to either or both sides of the line or route of the proposed opening, closing, or improvement of highway, which may be benefited by such opening, closing, or improvement, shall be assessed, bear, and pay such relative proportion of the estimated cost and expense of the same as is directed by this chapter to be assessed to estates benefited as to the commissioners shall deem just.

Provided, however, that the superintendent shall waive such assessment, or any portion thereof, by giving notice to the commissioners that no benefits or betterments are to be assessed in any particular proposed improvement.

§ 337. The estimated cost and expense which shall be assessed under the preceding section 336 shall mean and be:

The total money awards of the commissioners for damages and value of property taken and any value or awards for removal of property where option is given; also the amount finally agreed upon, of any claims that may have been compromised by the superintendent; also the estimated cost of work, labor, and material to be expended by the government to perfect such opening, closing, or improvement.

All estimates shall be signed by the superintendent or chief clerk of the office of the superintendent of public works. Provided, however, that the failure to include or the omission of any item of cost or expense shall not invalidate any estimate or any assessment of benefits or betterments.

§ 338. Upon filing their decision "A" as to damages, the commissioners shall determine the total estimate of cost and expense from their decision and from estimates and claims compromised that may be furnished them by the superintendent.

§ 339. The commissioners shall give notice of a time and place at which parties in interest, or whose estates may in their opinion be *prima facie* liable to assessment for benefits or betterments, may attend and be heard.

Such notice, if served by the commissioners, or any one by their direction, in the same manner as service is provided in section 323 to

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be made by the road authorities, shall be deemed good and sufficient service.

§ 340. After hearing all parties that may appear, the commissioners shall determine and apportion one-half of the estimated cost and expense of the proposed improvement among the estates and respective interests in estates benefited or bettered, as hereinbefore set forth, in such proportion in their judgment such estates ought to be assessed and ought to bear the same.

§ 341. The commissioners shall render and file with the superintendent a decision of their award of assessment of benefits or betterments, to be marked as decision "B," which decision shall set forth all benefits assessed with—

1. Location of estate.
2. Name of owner or party interested.
3. Amount assessed as benefit or betterment to estates or interests.
4. Total amount of cost or expense to be borne by estates assessed.

The commissioners shall also file with the superintendent all documents and papers and records.

The commissioners shall also serve a certified copy of their decision "B," as to benefits and betterments, on the owner of or party interested in each estate assessed, and also on the superintendent.

§ 342. The superintendent shall cause to be recorded in the office of the registrar of conveyances, in Honolulu, a certified copy of decision "B" within sixty days after the same shall have been filed by the commissioners, and a lien shall attach to each estate or interest therein in favor of the Government for the amount of benefits or betterments assessed, which lien shall have precedence over all other liens whatsoever, but no personal liability shall attach to the owners of the estate.

Such lien may be enforced by suit in equity in the nature of suits for foreclosure of mortgages, or in any manner that may be provided by law.

Provided, however, That no such lien shall be enforced after the expiration of five years after the same attaches.

§ 343. All assessments remaining unpaid after sixty days from the filing of decision "B" with the superintendent shall bear and pay interest at the rate of nine per cent per annum.

APPEALS.

§ 344. Any person aggrieved by the decision of the commissioners as to the award of damages by decision "A" or the assessment of benefits or betterments by decision "B," or both, may appeal therefrom to the circuit court of the judicial circuit in which such action is located.

§ 345. All appeals must be taken within twenty days after the service on appellant of a certified copy of the decision of the commissioners appealed from, by filing with the commissioners a notice in writing of such appeal, by paying the sum of five dollars as costs of appeal, and filing a bond in the sum of fifty dollars, conditioned to secure payment of future costs, to be made to the clerk of the court appealed to: Provided, however, That cash may be deposited in lieu of such bond.

Upon receipt of any notice of appeal, costs, and bond, the chairman of the commissioners (or, if he be absent from the district, one of the

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other commissioners) shall make out, sign, and deliver to each appellant a certificate of appeal in the following form, to wit:

TERRITORY OF HAWAII,
Island of ———:

This is to certify that in the matter of (state improvement) ——— an award or assessment for (damages or benefits, as the case may be) was made by the commissioners to or against (name) ———, on ——— (date) ———, as follows ———:

That he (name), ———, hath given notice in writing of appeal therefrom to ——— (court), and deposited costs, $—— accrued, and (bond or cash, as the case may be), to secure further costs.

Dated ————.

———— ————, *Commissioner.*

And shall also send a copy of such certificate to the superintendent.

The chairman of commissioners shall also forthwith forward copies of all certificates of appeal, together with costs and bonds deposited, to the court appealed to.

It shall be the duty of any appellant to see that the appeal be entered in such court, and that the records of such commissioners be produced before such court.

§ 346. Upon notice by appellant, the court may request the superintendent to produce and file with its clerk the records of the commissioners, or certified copies thereof.

Upon such request of the court, the superintendent shall cause to be sent up and filed with the clerk of such court all papers, minutes, reports, decisions, and records of the commissioners, or certified copies thereof, for use in any such appeals.

Upon the final decision or settlement of the appeals, the court having jurisdiction of such records and documents shall immediately return the same to the superintendent, together with any judicial alteration, amendment, or decision, and the same shall become a record in his department.

§ 347. The court of appeal may determine and award what costs, or proportion of costs shall be paid by any appellant.

§ 348. The superintendent shall have the same right of appeal, and shall give the same notice and receive a certificate of appeal: Provided, however, That he shall not be required to give or deposit any costs or bond.

§ 349. The superintendent may, in case any damage be awarded, and benefits assessed on the same estate, deduct the assessment from the amount of damage.

§ 350. Any service of notice under the provisions of this chapter, duly certified by the person making the same, shall be *prima facie* evidence of such service.

DECISION OF COMMISSIONERS CONCLUSIVE.

§ 351. The decisions of the commissioners shall be conclusive on all parties who have had notice served, as provided herein, and on all who have become parties to the proceedings, subject to appeal.

MISCELLANEOUS PROVISIONS.

§ 352. In any proceedings under this chapter there shall be no abatement by the death or disability of any person in interest; but the

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executor, administrator, heirs, or devisee of the deceased person, or the representative of the person under disability, may appear and prosecute in the same manner as the deceased person or persons under disability might have done.

§ 353. No act or procedure herein shall be illegal or invalidate the proceedings or decisions on account of mere informality, nor because the same was not completed within the time required by law (except time as to removal of property by claimants), unless the private rights of persons interested shall be injuriously affected thereby; and the burden of proof thereof shall be on the party claimant, and any such illegality shall be taken advantage of only by said persons, and shall in no wise affect the general proceedings.

§ 354. All lands and real property taken for highways or improvements under this chapter shall belong to the government of Hawaii absolutely and in fee simple; and in case a highway or improvement shall at any time be vacated, closed, abandoned, or discontinued, the land of such highway or improvements shall be used for the purposes of the government: Provided, That in case the same shall be in any way disposed of by the government, it shall be first offered to the abuttors in compromise, for a reasonable length of time and at a reasonable price, and if they do not take the same then it may be sold at public auction.

§ 355. The superintendent may, except in cases otherwise specially provided for by law, charge upon the road district or district wherein the improvement lies the cost and expense, or a proportion thereof if the improvement lies in two or more road districts, of the proposed improvement.

§ 356. Each commissioner shall be entitled to five dollars for each day of active service and such further compensation as the superintendent may allow, and also such clerk hire, stationery, etc., as may be allowed by the superintendent.

§ 357. It shall be the duty of the chief sheriff or sheriff to do and perform any act or thing of him required by the provisions of this chapter, and the deputy of the chief sheriff or of the sheriff is hereby authorized to perform such duty when so directed by the chief sheriff or sheriff.

NOTE TO CHAPTER 22.

§§ 312–357 are S. L. 1892, ch. 73.
Cases in Hawaiian Reports: Re Fort Street, 6 Haw., 639

CHAPTER 23.

GRADES OF STREETS.

§ 358. It shall be the duty of the superintendent of public works to appoint two civil engineers, to serve with himself as a commission to establish the grades of all streets and highways, and the grades and widths of all sidewalks thereon, in said city of Honolulu. Any vacancy on said commission shall be filled immediately. Said commissioners other than the superintendent of public works may be removed for cause by the superintendent of public works. Such commission shall be paid from the appropriation for the Bureau of Survey, excepting the superintendent of public works.

§ 359. It shall be the duty of the commission provided for in section 358 to carefully survey, level, and grade the streets, highways, and sidewalks as they may be directed by the superintendent of pub-

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lic works, and make proper and complete plans and profiles of the same, with the grade lines and widths recommended by them distinctly marked thereon. Such plans and profiles shall be signed by the commissioners, and the superintendent of public works shall countersign the same and cause the official seal of the office of the superintendent of public works to be affixed thereto.

§ 360. The plans and profiles described in section 359 shall be known as the official map, showing grades and sewers of the streets, highways, and sidewalks which they describe in the said city of Honolulu, to which all work on the streets, highways, and sidewalks shall conform, and they shall be preserved in the archives of the office of the superintendent of public works. Such plans and profiles shall be open at all times to the inspection of parties interested without charge. Copies thereof may be furnished by the superintendent of public works to parties desiring same at the usual charge for such work, and the amount so received shall be returned as a Government realization.

§ 361. For the purposes of this chapter the city of Honolulu shall compromise that portion of the Honolulu district in the island of Oahu within the following limits: The Kalihi stream on the west, the Manoa or Kalia stream on the east, the sea in front, and mauka all highways to a distance of three (3) miles inland from the sea.

NOTE TO CHAPTER 23.

§§ 358-361 are S. L. 1886, ch. 64.
Cases in Hawaiian Reports: Wideman *v.* Thurston, 7 Haw., 473.

CHAPTER 24.

MAINTENANCE OF HIGHWAYS.

§ 362. This chapter may be cited in all public proceedings as "The Highways Act, 1892."

DEFINITION.

§ 363. All roads, alleys, streets, ways, lanes, courts, places, trails, and bridges in the Hawaiian Islands, whether now or hereafter opened, laid out, or built by the Government, or by private parties, and dedicated or abandoned to the public as a highway, are hereby declared to be public highways.

All public highways once established shall continue until abandoned by due process of law.

DEDICATION OR ABANDONMENT.

§ 364. Any road, alley, street, way, lane, court, place, trail, or bridge laid out, constructed, opened, or maintained by individuals or corporations as a highway, may become a public highway by dedication or abandonment, or surrender thereof to general use by such individual or corporation; provided that the same shall be accepted or adopted by the superintendent of public works.

§ 365. Dedication or abandonment of any highway, mentioned in section 363, may be by deed or by a surrender or abandonment; such surrender or abandonment shall be taken to be when no act of ownership by the owner thereof has been exercised within five years.

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OWNERSHIP AND SUPERVISION.

§ 366. The ownership of all public highways and the land, real estate, and property of the same shall be in the Government of Hawaii in fee simple.

§ 367. All public highways are under the general supervision, charge, and control of the superintendent of public works, and, except as otherwise provided by law, he is charged with the execution of all duties relative thereto, whether prescribed by this chapter, or otherwise.

CARE OF HIGHWAYS.

§ 368. All persons or corporations excavating or making or maintaining irrigation or drainage ditches, or ways across public highways, are required to bridge such ditches at such crossing, and maintain the same in good repair; and in case of neglect, after notice so to do, the road authorities may construct the same, or repair the same, and recover the whole costs and expense of the same, of such person or corporation, in an action at law. Such action may be brought in the name of the superintendent of public works on behalf of the Government of Hawaii, and the respective road authorities, as the case may be, are authorized to institute such action.

§ 369. Whenever highways are laid out to cross railroads, canals, or ditches the road authorities must, at public expense and without delay, so prepare and guard such road, canal, or ditch that the public may cross the same without danger.

§ 370. The superintendent of public works, in his discretion, may permit the establishment of gates on the public highways in certain cases to avoid the necessity of building road fences and prescribe rules and regulations for closing the same, provided that the expense for the erection and maintenance of such gates shall, in all cases, be borne by the party or parties for whose immediate benefit the same shall be ordered.

SIDEWALKS.

§ 371. Upon highways of twenty-five feet in width or over, adjoining owners may construct a sidewalk; such sidewalk shall not exceed six feet in width on highways less than forty feet wide. They must not exceed ten feet in width on all other highways. In all cases the construction and maintenance of sidewalks shall be subject to such regulations, regarding grades, width, height, material, and method of construction, as may be from time to time promulgated by the superintendent of public works; and the superintendent of public works may permit, in his discretion, the construction of a sidewalk on highways of twenty-five feet or less in width.

§ 372. All sidewalks shall be constructed and maintained at the expense of the adjoining owner or abuttor subject to the provisions of section 373.

§ 373. After the establishment of the grades of streets in Honolulu and Hilo, as by law prescribed, the said superintendent may require the owners of the land adjoining any street, the grade of which has been established, to construct sidewalks in accordance with the grade of the street and to comply with the regulations regarding the material and construction of such sidewalks.

§ 374. If any such owner, after receiving notice to construct a sidewalk, as provided in section 373 hereof, shall neglect or refuse to

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comply with such direction for sixty days after notice, the superintendent may proceed to construct such sidewalk at the expense of such owner; such expense shall be a lien on the property in front of which such sidewalk is constructed, and the superintendent may recover the amount of such lien, and the expense and costs of the same, by action at law in assumpsit, or by any action allowed by law and equity, or that may be prescribed by statute.

§ 375. Any persons using a sidewalk constructed according to the provisions of this chapter with mule, horse, or team, or who shall drive a wagon, bicycle, or other wheeled vehicle on such sidewalk without permission of the owner, shall be liable to the owner or occupant in the sum of five dollars for each trespass, and for all damages suffered thereby, to be recovered by such owner or occupant in an action of trespass.

§ 376. Any owner or occupant of land adjoining a public highway may plant trees in and along the said highway on the side contiguous to his land. They shall be set in regular rows, at a distance of at least twenty feet from each other, and so that they shall not interfere with the free passage of water in the gutters, and shall be subject to such regulations as may be from time to time made by the superintendent of public works.

§ 377. Any person injuring the trees in front of the premises of any owner or occupant, without permission of the owner or occupant, shall be liable to the owner or occupant in the sum of five dollars for each tree so injured, to be recovered in an action of trespass: Provided, That this shall not apply to the trimming and removal of trees by authority of proper officers of the government for public purposes and uses.

MAPS AND RECORDS OF HIGHWAYS.

§ 378. The superintendent of public works is authorized and directed to prepare maps and diagrams of all public highways of the Territory, and certify to them and copies of them, and to furnish to the respective road authorities certified copies of the same relating to those portions of the country controlled by the respective road authorities of the Territory; and all such maps and certified copies, and all records of the road authorities shall constitute and be the public records of public highways.

The chief clerk of the office of the superintendent of public works is authorized to sign such certificates.

§ 379. The superintendent of public works is hereby directed to ascertain and define mileage distances upon the main government roads. A suitable mark shall be placed at each mile, indicating clearly the distance from the point of departure. If any of the road authorities deem it necessary or useful, they may also ascertain and maintain local mile marks; but in such cases the mark shall definitely name the local point of departure.

§ 380. On the island of Hawaii the general point of departure for mileage shall be the post-office in Hilo and the court-house at Waimea. On Maui it shall be the court-house in Wailuku. On Molokai it shall be the court-house at Pukoo. On Oahu it shall be Aliiolani Hale. On Kauai it shall be the court-house at Nawiliwili.

§ 381. In addition to the distance measurements to be ascertained and maintained as by this chapter provided, the superintendent of public works or respective road authorities, under direction of said superintendent, are likewise charged with the duty of erecting and

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maintaining, at all important cross or branch roads on public highways, guide posts, direction boards, or signs, with suitable inscriptions, indicating the direction of the nearest important points or places to which such cross or branch roads or public highways respectively lead.

STREET NAMES.

§ 382. Upon the corners of all streets in Honolulu, Hilo, Wailuku, and Lahaina the street names shall be placed in conspicuous positions, at least $3\frac{1}{2}$ feet above the street grade.

EXPENSES.

§ 383. All expenses incurred under or in consequence of the provisions of this chapter not otherwise herein provided for shall be paid out of the road moneys of the respective districts.

NOTE TO CHAPTER 24.

§§ 262–383 are S. L. 1892., ch. 47. §373 is as amended by S. L. 1898, act 16. Penalties for violations of this chapter see Penal Laws, §§ 1433–1437.

CHAPTER 25.

CANTONIERS.

§ 384. The superintendent of public works shall instruct the road supervisors and the chairmen of the several road authorities of the various other districts of the Territory, as established by chapter 21, to present him within three months after the passage of this chapter, a description of the locality, routes, and lengths of such public roads or streets in their several districts, where the amount of traffic or the special climatic influences may appear to necessitate constant attention and work, justifying the appointment of permanent road workers.

§ 385. The superintendent of public works shall also issue proper rules and regulations for the organization of a regular corps of permanent road workers to be called "cantoniers," who shall be appointed by him, on the recommendation of the local road authorities and assigned to the several public streets or roads, or portion of roads, such as shall be deemed by the road authorities to require the constant work of these cantoniers.

§ 386. The cantoniers shall work under the orders and supervision of the different road authorities as above mentioned, or as may be hereafter constituted.

§ 387. To each cantonier shall be entrusted such a length of public road or street as may be necessary, so that each man may have enough to keep him usefully engaged all the year round. Such lengths of road shall be called "sections," classified and distinguished by a progressive number, by which the respective cantoniers shall also be known.

§ 388. The duty of every cantonier shall be to give all of his time to the labor required to keep his section in the best possible good order for public traffic under the supervision of the road authorities, subject, however, to the regulations and orders of their superiors.

(A) Visit the whole length of his section once a week, and notify the proper authorities of any extraordinary occurrence;

(B) Attend to the prompt and thorough drainage of all water from

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the roadbed, by keeping the side and transverse ditches and gutters well cleaned and opened;

(C) Make all repairs necessary to secure the conservation of the roadbeds, and fill up without delay all ruts and holes and other forms of wear and tear, so that the road or street may be always clean and dry, with a regular and hard surface, so as to avoid the necessity of heavy repairs;

(D) Remove all filth and weeds from the roadbeds and scrape away the dust or mud, and attend to the proper conservation and cleanliness of the sidewalks, banks, and taluses;

(E) Prepare the stones, sand, and other material necessary for the repairs, collect these from the adjoining lands with the permission of the landowners, when such material is not furnished by the road authorities, and keep such material in proper heaps along the roads;

(F) Keep free from filth and weeds the sides and approaches of bridges, parapets, and other walls, and verify their good condition;

(G) Attend to the planting and care of trees along the roadsides, when so ordered, and keep trimmed the existing trees which may obstruct the public traffic;

(H) Attend to the security of their various sections by placing signals at dangerous points or temporary obstacles; prevent people from digging, scraping, or otherwise damaging the roads, from throwing stones or other impediments to public traffic, or allowing water to run on the road from neighboring properties, and otherwise attend to the proper observance of all police regulations concerning the public highways;

(I) Take statistical notes of the traffic if so required and generally perform, in connection with their various sections, all work that may be ordered by the road authorities.

§ 389. Each cantonier shall be bound to attend to work on his section of road each and every day of the year—Sundays and legal holidays excepted—bad weather being no excuse for nonattendance at work; and whenever known to be absent without good and sufficient excuse he shall be fined by the road authorities to the amount of double his regular wages for each day of absence. When a cantonier wishes to absent himself for any purpose or take a vacation he must put a man in his place, with the consent of the road authorities.

§ 390. Each cantonier shall receive a fixed salary, payable at the end of each calendar month and based on the most liberal price of wages paid in the district for similar work; this monthly salary shall be paid by the road authorities out of the taxation moneys regularly provided by the law for the road purposes of each district.

§ 391. Each cantonier shall be furnished by the government, through the local road authorities, with all the necessary tools for the accomplishment of his work, for the care and preservation of which he shall be responsible, the proper wear and tear being duly allowed; but his wages shall be liable to deduction for loss or undue breakage.

§ 392. The cantoniers shall be selected preferably amongst native Hawaiians or foreigners of long residence, care being taken to choose the most competent for the work, of good health and conduct, and living as near as possible to the sections of road allotted to them. When found practicable or desirable by the road authorities, with the consent of the superintendent of public works, special houses may be built by the government for the residence of the cantoniers of sections where the road traverses parts of country sparsely inhabited.

§ 393. Whenever, by sudden accident or unforeseen circumstance, the

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state of the road may require urgent repairs to which the cantonier finds himself incapable of attending alone, he must immediately notify the road authorities, who shall have power to call upon such of the neighboring cantoniers as may be conveniently taken away from their sections and send them to help the other one, each cantonier thus called out of his section being entitled to a gratuity of one-fifth extra pay for each day of work.

§ 394. When any portion of any section of road or street requires special work of such magnitude that it can not be attended to by the available neighboring cantoniers, or when any individual cantonier needs any particular assistance on his section, the road authorities shall allow the necessary extra help from available prisoners or outside day laborers as may be required by the state of the road, such prisoners or helpers working under the superintendence of the cantonier of the section if no special superintendent is delegated by the road authorities.

§ 395. When found necessary the road authorities shall have power to entrust to special men, to be called "chief cantoniers," chosen amongst the cantoniers who have distinguished themselves for their competency and good conduct, the power of supervising the different cantoniers of a district, of visiting their respective sections, and of inspecting or directing the usual daily work, and of reporting to the road authorities any dereliction of duty on the part of the individual cantoniers. These chiefs shall receive such extra salary as the road authorities may prescribe.

§ 396. Each cantonier at his work shall wear, as a distinctive sign, buckled on the left arm, a band of red cloth with the number of his section affixed in large black figures. A similar yellow band shall indicate the chief cantoniers.

§ 397. The regulations provided for in section 385 may prescribe the necessary punishments for dereliction of duty by the cantoniers, in fines, dismissal, or otherwise; and also the cases in which the cantoniers shall be removed or transferred to different sections.

§ 398. The cantoniers may be empowered to act as special policemen in all that relates to the police of the roads.

§ 399. A report of the work and cost of all the cantoniers shall be sent biennially by the different road authorities to the superintendent of public works for presentation to the legislature.

§ 400. This chapter shall be known as the "Cantonier act of 1890."

NOTE TO CHAPTER 25.

§§ 384–400 are S. L., 1890, ch. 34.

CHAPTER 26.

STREET WIDENING, HONOLULU.

§ 401. The streets in the district of Honolulu, on the island of Oahu, now known as Beretania, Union, Richards, Miller, School, Hotel, Fort, Punchbowl, King, Bethel, Judd, and Nuuanu streets shall be widened as hereinafter set forth at such times as the governor shall decide, according to the respective surveys for such widening thereof set forth in section 405, anything in chapter 22 to the contrary notwithstanding.

And whenever the governor shall deem it desirable for the public convenience so to increase the width of the said streets or any of them as aforesaid, he may cause the same to be done after requiring the damages and betterments which such increase of width will cause in private

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real estate affected thereby to be appraised and settled according to the provisions of the said chapter, except as otherwise provided in section 402.

§ 402. If, after the publication of this chapter, any person or corporation shall make or construct any buildings or improvements of any kind within the lines of street widening as hereinafter set forth, such person or corporation and their respective representatives shall be without remedy at law or in equity for any injury, loss, or damage that may be caused by the removal or destruction of such buildings or improvements, when such removal or destruction is required by the widening of such streets as aforesaid.

§ 403. From the time of the publication of this chapter until the aforesaid street widenings are carried out, respectively, the surveyor shall keep in the office of the government survey charts of such proposed street widenings, which shall be open to public inspection during office hours without fee.

§ 404. Upon the publication of this chapter, the surveyor shall cause the lines of such proposed street widenings to be marked with substantial white stakes with the letters "St. W." painted thereon, which stakes shall be placed in sufficient numbers to reasonably designate such lines; and anyone removing or moving such stakes without authority shall be guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine of not more than one hundred dollars.

§ 405.

SCHEDULE.

[The schedule containing the surveys of the proposed street widening can be found in the Session Laws of 1896, Act 23.]

NOTE TO CHAPTER 26.

§§ 401–405 are S. L. 1896, Act 23.

CHAPTER 27.

STREET EXTENSION, HONOLULU.

§ 406. The streets in the district of Honolulu, in the island of Oahu, now known as Fort, Kukui, Vineyard, Kuakini, Bates, Pensacola, Mililani, Queen, and Young streets, shall be extended as hereinafter set forth, at such times as the governor shall decide, according to the respective surveys for such extension thereof in the schedule hereunto annexed, anything in Chapter 22 to the contrary notwithstanding.

And whenever the governor shall deem it desirable for the public convenience so to extend the said streets or any of them, as aforesaid, he may cause the same to be done, after requiring the damages and betterments which such extension or extensions will cause in private real estate affected thereby to be appraised according to the provisions of said chapter.

§ 407. If, after the publication of this act, any person or corporation shall make or construct any buildings or improvements of any kind whatsoever within the lines of street extension as hereinafter set forth, such person or corporation and their respective representatives shall be without remedy in law or equity for any injury, loss, or damage that may be caused by the removal or destruction of such buildings or improvements when such removal or destruction is required by the extension of such streets as aforesaid: *Provided, however*, That full

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compensation for any such injury, loss, or damage may be recovered by the owner of any building or improvements made or constructed after the expiration of five years from the date of the publication of this act within the said lines of any street the extension of which has not within that time been actually completed.

§ 408. From the time of the publication of this act until the aforesaid extensions are carried out respectively, the surveyor shall keep in the office of the government survey, charts of such proposed street extensions, which shall be open to public examination during office hours without fee.

§ 409. Upon the publication of this chapter, the surveyor shall cause the lines of such proposed extensions to be marked with substantial white stakes with the letters "St. Ex." painted thereon, which shall be placed in sufficient numbers to reasonably designate such lines; and any one removing or moving such stakes without authority shall be guilty of a misdemeanor and upon conviction thereof shall be liable to a fine of not more than one hundred dollars.

SCHEDULE.

[The schedule containing the surveys of the proposed street extensions can be found in the Session Laws of 1896, act 43.]

NOTE TO CHAPTER 27.

§§ 406–409 are S. L. 1896, act 43. § 406 is as amended by S. L. 1898, act 11.

CHAPTER 28.

STREET IMPROVEMENT, HILO.

§ 410. The superintendent of public works is hereby authorized and empowered to fix the street lines, and to establish the grades of the streets and highways, and the grades and widths of all sidewalks thereon, in the town of Hilo, island of Hawaii.

§ 411. The superintendent of public works shall appoint a civil engineer to assist him in determining said street lines and grades, and to lay out the same.

§ 412. The width of each street shall be determined according to the apparent needs of the public, and shall in no case be less than forty (40) feet nor more than sixty (60) feet in width, including sidewalks and drains; except Waianuenue street, which shall be fifty-four (54) feet wide, and Front street, which may be made any width desirable.

§ 413. The grade of each street shall be the best that can be made, for the convenience of the public.

§ 414. The street lines and grades shall be determined as soon as possible, and made known to the public by publication in some newspaper.

§ 415. After the street lines are determined and made known, the Government shall not be liable for damages to any property holder for new improvements placed within said street lines.

§ 416. After the grade of any street is determined, all permanent work on said street shall conform to such grade as far as possible.

§ 417. As soon as it is practicable, the superintendent of public works shall proceed to widen and grade Front street and Waianuenue street, and such work shall be carried out on the other streets as the needs of the public may require.

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§418. The lines previously fixed of any street may be further extended or altered within the limits of section 412, if it is necessary, to meet the need of the public at the time such street is actually widened, Front street being made any width desired.

NOTE TO CHAPTER 28.

§§410–418 are S. L. 1896, act 9.

CHAPTER 29.

STREET EXTENSION, HILO.

§419. The streets in the town of Hilo, island of Hawaii, known as Bridge, Pleasant, and Pitman streets, shall be extended as hereinafter set forth, at such times as the governor shall decide, according to the respective surveys for such extension exhibited in the schedule hereunto annexed, anything in chapter 22 to the contrary notwithstanding.

And whenever the governor shall deem it desirable for the public convenience so to extend the said streets or any of them, as aforesaid, he may cause the same to be done, after requiring the damages and betterments which such extension or extensions will cause in private real estate affected thereby to be appraised according to the provisions of the said chapter.

§420. If after the publication of this chapter any person or corporation shall make or construct any buildings or improvements of any kind whatsoever within the lines of street extension as hereinafter set forth, such person and corporation and their respective representatives shall be without remedy in law or equity for any injury, loss, or damage that may be caused by the removal or destruction of such buildings or improvements, when such removal or destruction is required by the extension of such streets as aforesaid.

§421. From the time of the publication of this chapter until the aforesaid extensions are carried out respectively, the surveyor shall keep at some convenient public place, in the said town of Hilo, charts of such proposed street extensions, which shall be open to public examination during office hours without fee.

§422. Upon the publication of this chapter, the surveyor shall cause the lines of such proposed extensions to be marked with substantial white stakes with the letters "St. Ex." painted thereon, which shall be placed in sufficient numbers to reasonably designate such lines; and anyone removing or moving such stakes without authority shall be guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine of not more than one hundred dollars.

SCHEDULE.

[The schedule containing the surveys of the proposed street extensions can be found in the Session Laws of 1896, Act 48.]

NOTE TO CHAPTER 29.

§§419–422 are S. L. 1896, Act 48.

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CHAPTER 30.

COMMISSIONER OF AGRICULTURE AND FORESTRY.

WHEREAS it is proper that encouragement should be given to the advancement of agriculture, the improvement of live stock and the various branches of rural industry and the arts connected therewith, therefore:

Be it enacted, etc.

§ 423. There shall be a commissioner of agriculture and forestry, who shall have for his object:

1. To provide for the instruction of the public, by free lectures and printed matter, such information as has been proved by practical experience to be useful to agriculture, stock raising, and kindred industries.

2. To obtain from other countries such information, and procure such seeds and plants as may be of practical benefit to the agricultural and commercial interests of this Republic.

3. To collect information concerning tropical and semitropical textile fabrics; the utility of island woods or other products; the planting of trees for forest conservation; the promotion of an arbor-day observance throughout the Republic; the preservation of forests, and all kindred subjects; and the compilation of statistics concerning the agricultural and live-stock interests of the country.

4. To guard against the introduction of plant diseases or insect pests, and render aid in the suppression of blights and diseases affecting agricultural products and live stock.

[§ 424.]

§ 425. The commissioner is hereby authorized to formulate such rules and regulations, not inconsistent with existing laws, and take such action as may be necessary to promote the objects of this chapter, which, when published, shall have the force of law.

The said rules shall be countersigned and promulgated by the governor.

§ 426. The commissioner shall have power to remunerate any landholder, who at the request of the commissioner, may undertake any experimental cultivation for the public benefit.

§ 427. Upon the recommendation of the commissioner, the governor may offer premiums for the encouragement of new agricultural enterprises, the utilization of waste products, and formulæ for the destruction of injurious insects and noxious weeds.

§ 428. The commissioner may authorize fairs to be held from time to time in Honolulu or elsewhere for the exhibition of agricultural products or mechanical arts appertaining thereto, and may provide competitive prizes for excellence in such objects as may prove beneficia to the country.

§ 429. The governor, by and with the approval of the commissioner, shall have power to set apart from any government or school lands, or to acquire by lease or purchase a site suitable for an experimental station or stations, and may employ and remunerate suitable persons necessary to carry on the same under the auspices of the commissioner.

§ 430. It shall be the duty of the commissioner or his representatiev to visit, at least once a year, all homesteads and the principal agricultural enterprises on the respective islands throughout the Territory to ascertain if the terms of the law are being complied with; to give to the homesteaders such advice in the planting, cultivating, and fertilizing of their respective holdings as shall be conducive to the best results and to make to the bureau a report of each visit.

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§ 431. The commissioner of agriculture and forestry shall, at the close of each year, make out a detailed report of his work, which shall be published, and shall also furnish a biennial report to be embodied in that of the governor at the regular sessions of the legislature.

§ 432. All moneys appropriated by the legislature for the purposes of this chapter shall be under the control of the commissioner, and all receipts of the commissioner shall be accounted for and paid into the treasury as government realizations.

§ 433. For the purpose of concentrating kindred objects under one department, the execution of the following laws and parts of laws shall be deemed to be duties of the commissioner of argriculture and forestry, viz:

[1.]

2. Chapter XXX of the Session Laws of 1876, entitled "An act for the protection and preservation of woods and forests." [See Penal Laws, ch. 95.]

[3.]

6. Chapter XXXIV of the Session Laws of 1888, entitled "An act to prevent the introduction of coffee leaf diseases". (See Penal Laws, chapter 95.)

7. Chapter II of the Session Laws of 1890, entitled "An act relating to the suppression of plant diseases, blight, and insect pests." (See Penal Laws, chapter 95.)

NOTE TO CHAPTER 30.

§§ 423–433 are S. L. 1892, Ch. 81.

[*CHAPTER 31.*]

[§§ 434–437.]

[*CHAPTER 32.*]

[§§ 438–442.]

[*CHAPTER 33.*]

[§§ 443–444.]

[*CHAPTER 34.*]

[§§ 445–453.]

[*CHAPTER 35.*]

[§§ 454–455.]

CHAPTER 36.

POUNDS AND BRANDS.

POUNDS AND POUND MASTERS.

§ 456. It shall be the duty of the superintendent of public works to cause to be constructed and set apart a suitable inclosure or inclosures in each district of the Territory for the impounding of estrays, and he shall give notice of all pounds which may hereafter be established, or of any change of location of pounds now in existence, in any newspapers published in the Hawaiian and English languages in Honolulu.

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§ 457. The superintendent of public works shall appoint suitable persons to have charge of said pounds, and such pound master shall be governed by such rules as the law may prescribe. The superintendent of public works may at any time remove any such pound master for failure or neglect to properly perform the duties of his office, publishing the reasons for such removal, if requested to do so by the person so removed. Upon the petition of twenty-five or more taxpayers of any district, making charges against any pound master, and asking for his removal, the said superintendent shall cause such charges to be investigated; and if, upon investigation, it shall appear that such pound master shall have failed or neglected to properly perform the duties of a pound master, the superintendent of public works shall remove him. All vacancies shall be filled by appointment by the superintendent of public works.

§ 458. The pound master shall be responsible for the safe-keeping and proper care of any estray committed to his charge, and shall receive for his services fifty cents per day for every day that such estray is impounded, from the owner of such estray, excepting for sheep and goats, for which he shall receive five cents per day. He shall give the estrays a sufficient quantity of food and water; and any pound master who shall abuse or neglect any estray in his charge shall forfeit the pound fees to which he would otherwise have been entitled, and shall also be liable to the owner thereof for damages.

§ 459. No pound master shall receive estrays until the person wishing to impound the same shall have signed his name to a statement setting forth the number and species of estrays, locality trespassed upon, name of owner or owners of such estrays, if known, together with the date on which they were taken and the amount of damages and expenses claimed. Blanks for such statements shall be printed and bound in book form and furnished to the pound masters at cost price by the superintendent of public works, and shall be open to the inspection of the public.

§ 460. Every pound master shall keep an accurate account of the business done at his pound, in a book open to public inspection, and he shall make quarterly returns, under oath, to the superintendent of public works, showing his receipts and disbursements.

§ 461. No pound master shall receive into his pound any animal seized for trespass in any other district, provided there is a pound established in such other district.

POUND SALES.

§ 462. It shall be the duty of every pound master to post written or printed notices at the post-office (if there be one in the district), and at not less than two other public places in his district, in the Hawaiian and English languages, and to publish a notice in any newspaper which may be issued in his district, in said languages, as soon as possible after the impounding of any estray, giving a full description of the same, together with an announcement of the day on which it will be sold at public auction if unclaimed; for which notices he shall receive one dollar and fifty cents, to be charged pro rata according to the number of animals advertised therein. And the pound master shall also, forthwith, upon the impounding of any animal, notify in writing every person who shall have left with him a copy of his brand or mark, of any estray bearing the said brand or mark which shall be committed to his pound, for each which notice he shall receive twenty-five cents;

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and if the owner does not claim such estray and pay the pound fees, together with the charges for advertising and notifying and the damages claimed for trespass and expenses of driving, within twelve days from the date of impounding, or at any time before sale, the pound master shall sell such estray at public auction to the highest bidder at noon of the first Saturday ensuing after the expiration of the twelfth day aforesaid.

§463. The proceeds of such sale, or a receipt therefor, given by the owner of such estray or estrays, after paying the pound fees, expenses of advertisement, damages, and expenses of driving, shall be remitted by the pound master to the superintendent of public works when he makes his returns for the quarter. In case the owner of the estray shall substantiate his claim thereto within one year, the superintendent of public works shall pay over to him the said balance of proceeds. If such claims be not substantiated, the said superintendent shall pay such proceeds into the treasury as a government realization.

§464. If any cattle, horse, mule, ass, swine, sheep, or goat shall trespass on any properly fenced cultivated ground, the owner thereof shall pay to the owner of such land the full amount of damage or loss occasioned by such estray to such landowner, and the sum of fifty cents for each animal trespassing, excepting for sheep and goats, for which he shall pay ten cents each: Provided, however, That if in any particular case this provision shall have an onerous or unjust bearing, owing to the large number of animals trespassing, the judge shall have power to diminish the forfeiture.

§ 465. If any of the animals mentioned in section 464 trespass upon an unfenced, cultivated ground, the owner thereof shall pay to the owner of such land the sum of twenty-five cents for each animal trespassing, excepting for sheep and goats, for which he shall pay ten cents each. The owner of such land shall not be entitled to claim any damages for such trespass other than said sum of twenty-five cents: Provided, however, That if in any particular case this provision shall have an onerous or unjust bearing, owing to the large number of animals trespassing, the judge shall have power to diminish the forfeiture.

§466. If any of the animals mentioned in section 464 shall trespass on any uncultivated land, the owner of such animal or animals shall pay to the owner of the land the sum of twenty-five cents for the trespass of each animal, excepting for sheep and goats, for which he shall pay ten cents each; and if any damage be done by the animal or animals, the owner thereof shall further pay to the land owner the full amount of such damage.

§467. If any animal mentioned in section 9 of this act shall trespass or stray upon any of the government roads in and around the city of Honolulu, town of Hilo and district, Hawaii, towns of Wailuku and Lahaina, Maui, or upon any government road bounded on both sides by a legal fence, or upon any government land in this Territory, the superintendent of public works or road authorities of the several districts, or such person or persons that may be thereunto authorized in writing by such superintendent or road authorities, are hereby authorized to take up such animal and to impound the same in accordance with the provisions of this chapter. The owner or owners of such animals so taken up or impounded shall pay to the said superintendent or road authorities, or such person as may be authorized by him or them as aforesaid, the sum of not more than twenty-five cents for each animal so trespassing as expenses incurred in taking up, driving, and impound-

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ing said animal, together with all pound fees as provided in this chapter. And in case the said charges and pound fees are not paid, the animals impounded shall be sold at public auction as provided by section 462.

§ 468. All owners of swine or goats shall keep such animals confined. In case swine or goats shall trespass upon any land, the owner, if known, shall be notified by the owner or occupier of the land trespassed upon, and if he shall not remove the swine or goats (as the case may be) within twenty-four hours, or if any swine or goats belonging to such owner shall again trespass upon the land of such landowner or occupier, such swine or goats (as the case may be), as well as all swine or goats trespassing, the owner of which is unknown, may be killed, and the landowner or occupier shall not be liable for damages for such killing.

§ 469. Every person on whose land any stallion of twelve months old or upwards shall be found trespassing may, without any notice, cause such stallion to be impounded, and the owner shall pay to the person upon whose land such trespass be committed ten dollars for every such trespass, to be collected by the pound keeper, as provided by this chapter.

§ 470. In all cases where animals are taken up for trespass the actual expenses incurred, or a fair allowance for the labor required in catching, driving, and conveying such animals to the pound and of giving notice to the owner of the same, shall be added to the forfeits and damages specified in the preceding sections. Provided, however, That the charge for such catching or driving and conveying to the pound shall not exceed fifty cents per head.

§ 471. Where any animal or animals are taken up for trespass, the owner, if known, shall be immediately notified, if reasonably practicable, of such fact and of the amount of damage and trespass fees claimed, and if he shall refuse or fail to pay the legal charges, or in case the owner be unknown, then the animal or animals shall be impounded forthwith.

§ 472. Every fence shall be deemed a lawful fence which shall be made of stone, posts and rails, posts and boards, posts and iron wire, or other suitable materials, provided it be not less than four and a half feet in height, substantially built, strong, and close, to turn all stock excepting swine, and in good repair. The sea, rivers, ponds, and natural perpendicular bluffs, whenever impassable, shall be legal fences.

§ 473. If the owner of any animal or animals taken up for trespass has reason to believe that the taking up or impounding of the same was illegal, or if he regards the claim for damages or expenses as excessive, he may have his animals returned to him upon his delivering to the landowner or to the pound keeper, if the animal or animals have been impounded, a certificate from any district magistrate of the district stating that he has deposited with such magistrate the amount claimed by the landowner, together with the pound fees, if any, or a good and sufficient bond for the same and the costs of a suit before him.

§ 474. The said magistrate shall, upon receiving the amount claimed, including pound fees, if any, or a good and sufficient bond for such amount, and the costs of suit, issue the required certificate, and at the same time summon the parties to appear before him with their witnesses, and after a fair hearing he shall decide between them. No appeal shall be allowed from his decision unless taken and perfected within five days after such decision has been rendered, and in case an appeal is taken, he shall require from the appellant a bond in the sum of fifty

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dollars conditioned for the payment of the costs further to accrue, or fifty dollars in lieu of such bond in case the judgment is confirmed, which bond, together with the amount claimed or the bond given in lieu of such amount, he shall send up to the appellate court, together with the certificate of appeal. If it shall appear on trial that the impounding was illegal, the landowner shall be compelled to pay the pound fees.

REGISTER OF BRANDS.

§ 475. Every owner of live stock shall, in order to its validity, have his brand or mark recorded in a book kept for the purpose by the superintendent of public works on the island of Oahu or the sheriff of the island on which his animals are, and shall receive a certificate to that effect on the payment of one dollar for the benefit of the public treasury. Provided, however, That no brand or mark shall be recorded which may be similar or approximate in design to any brand or mark which shall have been previously recorded, and no record shall be made of any mark which shall have been previously recorded, and no record shall be made of any mark which shall involve the cutting off of one or both ears of an animal. All records of brands and marks now in possession of the several governors shall be forthwith transferred to the superintendent of public works on the island of Oahu and to the several sheriffs on the other islands.

§ 476. From and after the first day of July, 1893, all registrations of brands made and in force prior to September 1, 1892, shall be, and the same are hereby, canceled and made void; and from and after such first day of July, 1893, any person may appropriate and register any brand whatsoever, whether the same has been registered prior to September 1, 1892, or not, provided such brand has not been registered between September 1, 1892, and July 1, 1893, in the same manner as though such brand had never been registered.

[§ 477.]

§ 478. From and after the first day of January, A. D. 1894, all registration of ear marks or other marks (except brands) shall be, and the same are hereby, canceled; and from and after the first day of January, A. D. 1894, no ear or other mark (except brands) shall be registered.

§ 479. If any horse, mule, ass, hog, sheep, or neat cattle shall be found at large, and not upon the land of the owner, or person having charge of such animal, or if found doing damage to the property of private individuals, or of the government, such animal shall be regarded as an estray within the meaning of this chapter.

§ 480. All cattle, horses, mules, donkeys, sheep, goats, and swine, over twelve months of age, not marked or branded according to law, and which may have been running wild and at large for six months or over upon any of the lands of this Territory, shall belong to and be the property of the owners or lessees of the lands on which the said animals may be found running.

NOTE TO CHAPTER 36.

§§ 456–461, 463–466 are S. L. 1888, ch. 35. §§ 462, 467 are S. L. 1898, Act 64. § 468 is S. L. 1896, Act 20. § 469 is S. L. 1882, ch. 22. § 470 is S. L. 1890, ch. 44. §§ 471–475 are S. L. 1888, ch. 35. § 476 is S. L. 1892, ch. 55. § 478 is P. G., Act 57. § 479 is C. L., § 250. § 480 is S. L. 1874, ch. 27; C. L., p. 543.

Penalties for violations of this chapter: See Penal Laws, §§ 1445–1446.

Cases in Hawaiian reports: Lishman *v.* Perry, 7 Haw., 267; Kanakanui *v.* Manini, 8 Ha., 710; Miyagawa *v.* Ferreira, 10 Haw., 23.

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[*CHAPTER 37.*]

[§§ 481–495.]

[*CHAPTER 38.*]

[§§ 496–501.]

CHAPTER 39.

REGISTRATION OF PRINTS, LABELS, AND TRADE-MARKS.

§ 502. Any person or firm or corporation desiring to secure the exclusive use of any print, label, or trade-mark intended to be attached or applied to any goods or manufactured articles, or to bottles, boxes, or packages containing such goods or manufactured articles to indicate the name of the manufacturer, the contents of the packages, the quality of the goods, or directions for use, may obtain a certificate of the registration of such print, label, or trade-mark in the manner hereinafter provided.

§ 503. Before anyone shall receive a certificate of the registration of a print, label, or trade-mark, he shall file in the office of the treasurer an application for the registration of such print, label, or trade-mark, with a declaration verified by the oath of the applicant, or, if the application be made by a firm or corporation, by the oath of a member of such firm, or an officer of such corporation, that he is, or they are, the sole and original proprietor or proprietors, or the assign or assigns of such proprietor or proprietors, of the goods or manufactured articles for which such print, label, or trade-mark is to be used, and describing such goods and manufactured articles, and the manner in which such print, label, or trade-mark is to be used. Said application shall be accompanied by two exact copies of such print, label, or trade-mark.

§ 504. Upon filing such application, the applicant or applicants shall pay to the treasurer a fee of five dollars.

§ 505. Upon receiving such application so accompanied, and the payment of such fee, the treasurer shall cause the said print, label, or trade-mark to be recorded in a book to be kept for that purpose, and shall issue to the applicant or applicants a certificate of registration under the seal of the treasury; and such certificate of registration shall secure to the applicant or applicants the exclusive use of the said print, label, or trade-mark throughout the Hawaiian Islands for the term of twenty years from the date thereof.

NOTE TO CHAPTER 39.

§§ 502–505 are S. L. 1888, ch. 4.

CHAPTER 40.

HARBOR IMPROVEMENTS—WATERWORKS.

§ 506. It shall be the duty of the superintendent of public works to superintend all harbor improvements, the demarkation and improvement of channels, the erection of all public lights and beacons, and the construction and repair of all public wharves and piers throughout the Territory.

§ 507. The said superintendent of public works may, under the direction of the governor, improve the water lots in Honolulu, known as

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Waikahalulu, by causing a retaining wall to be erected at a suitable depth of water seaward, and by filling up said lots in such manner as that warehouses may be safely built thereon. He may also build out from said retaining wall such wharves as the public wants may require.

§ 508. The superintendent of public works shall have the general charge of the pipes or conduits of water to supply the city and harbor of Honolulu and other places within the Territory.

§ 509. He may from time to time regulate the rates to be paid for water, and whenever such rates shall be changed notice thereof shall be duly advertised not less than once a week for at least four weeks in the Hawaiian and English languages in two or more newspapers published in Honolulu.

§ 510. Applications for a permanent supply of water from any Government system or source of supply shall be in writing, signed by the applicant. Such application shall be upon a printed form, to be supplied by the superintendent of public works to the superintendent of waterworks, and shall contain a statement of the terms and conditions upon which water may be used. If permission shall be granted, the applicant shall be furnished with a duplicate of the form of application, and shall be entitled to a water privilege as specified in such application. Water rates shall be payable half yearly in advance on the first day of January and the first day of July each year, at the office of the waterworks.

§ 511. The superintendent of waterworks shall, at least ten days before such water rates shall be payable, notify all persons then holding water privileges, as aforesaid, by advertisement in one or more newspapers published in the English and Hawaiian language, that such rates are payable on the first day of January or July, as the case may be, next following such notice.

§ 512. If such rate shall remain unpaid for fifteen days after it is due, ten per cent in addition to the regular rate shall be charged to and become due by the person holding such privilege, and the superintendent may forthwith, without notice, shut off the water from such privilege, charging the expense for so doing to the person holding such privilege.

§ 513. In addition to the notice heretofore required to be given by the superintendent of waterworks, he shall also, on or before the first day of July and January in each year, mail to each ratepayer a notice that such rate is due, and the amount thereof.

§ 514. The superintendent of public works may from time to time make such further rules and regulations for the Government water-supply system and revise the same as shall be necessary, not in any case to conflict with the provisions of this chapter.

§ 515. The said superintendent shall appoint some discreet and capable person to be superintendent of waterworks, whose duty it shall be to keep the conduits or pipes for the conveyance of water in repair, collect all water rates from ships and persons in Honolulu or its vicinity, and perform such other duties in connection therewith as the said superintendent may prescribe.

§ 516. The superintendent of waterworks shall receive for his compensation such sum as may be fixed by the superintendent of public works, not exceeding, however, fifteen per cent of the gross amount of water rates he may collect. He shall make under oath a quarterly return, or at any time when required by the said superintendent, of all his receipts and expenditures.

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NOTE TO CHAPTER 40.

§§ 506–507 are C. L., §§ 189–190. §§ 508–512 are S. L. 1886, ch. 26. § 513 is S. L. 1888, ch. 29. § 514 is S. L. 1886, ch. 26. §§ 515–516 are C. L., §§ 192–193.
Cases in Hawaiian Reports: Way *v.* Gulick, 5 Haw., 71.

CHAPTER 41.

HONOLULU WATERWORKS.

§ 517. The superintendent of public works is hereby authorized and empowered, in accordance with the provisions of this chapter, to enter upon and take possession of and hold for the use of the Government, such land and water, real estate and property, saving and excepting the water springs of Kunawai, Wailuakio and Kanewai, as may be required for the use, maintenance, increase and development of the Honolulu waterworks, in the way of laying water pipes, digging water leads, building dams and reservoirs, and reserving forest land, or land for the growth of forest vegetation, on the southern and western slopes of the Konahuanui range of mountains in the district of Honolulu, and lying between and including the eastern side of Palola Valley and the western side of Kalihi Valley, with all spurs and gulches of the said slope between the said limits.

§ 518. The superintendent of public works shall appoint three competent and disinterested parties, who shall be sworn before entering upon the duties of their office, and any one of them shall have power to administer oaths, to act as commissioner to ascertain and determine upon the compensation to be made to the owner or owners, person or persons interested, for the taking or injuriously affecting such land and water, real property, as may be required for the said works.

§ 519. The said commissioners shall, by printed or written notice, notify the owners and others interested in the land and water, real property, proposed to be taken or injuriously affected, to meet them, within thirty days thereafter, at some convenient place, and lodge their claims for compensation; thereafter the commissioners shall proceed with dispatch to take what testimony may by them be deemed necessary, and after having viewed the premises, the said commissioners, or a majority of them, shall determine upon the compensation proper to be made to each of the parties claimant and interested.

§ 520. The said commissioners, or a majority of them, shall make, subscribe, and file with the superintendent of public works, within such reasonable time after their appointment as may be fixed upon by the said superintendent, a certificate of their finding and appraisement, in which the land and water, real estate and property, so valued and to be taken, shall be described by map, diagram, or otherwise, with convenient accuracy and certainty.

§ 521. Upon the filing of the certificate, as provided in the preceding section, the superintendent of public works is hereby authorized to pay to the persons named in said certificate the several amounts determined upon by the said commissioners out of the appropriation for the Honolulu waterworks, and to take possession of and occupy all land and water, real estate and property, described in the said certificate, and to hold and use the same for the benefit of the Honolulu waterworks: Provided always, that either party feeling aggrieved by the decision of the commissioners may appeal to the supreme court of the Hawaiian Islands at the first regular term thereafter, on giving security for costs as provided in civil cases; And further provided, that such appeal shall

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not prevent the superintendent of public works from proceeding with the works, or retaining or taking possession of all land and water property mentioned and valued in the said certificate of the commissioners.

§ 522. The superintendent of public works, upon payment being made or tendered to all the parties entitled to payment under the certificate of the commissioners, shall cause to be entered on the records of his office said certificate, and a certified copy of the same shall be recorded in the office of the registrar of conveyances with the like effect as if it was a deed of conveyance in fee simple from the said owners and parties interested to the government of Hawaii.

§ 523. The superintendent of public works shall, on receiving the certificate of appraisement, pay to the commissioners such reasonable compensation as he may determine upon, and he shall have power to fill any vacancy in their number from death or other cause.

§ 524. The superintendent of public works is hereby authorized and empowered to enter upon, and take possession of, and hold, for the use of the government, such land, real estate, and property in the city of Honolulu as may be required for the laying of pipes in connection with the Honolulu waterworks.

§ 525. Compensation shall be made to all parties from whom such land, real estate, and property is taken, as provided in sections 518 to 523.

TRESPASS OF ANIMALS.

§ 526. If any horse, mule, ass, hog, goat, sheep, or neat cattle shall trespass upon any of the government land at the source of the streams, and upon which are the sources of the water which supply the reservoirs now erected, or hereafter to be erected, for furnishing water to Honolulu, the owner of such animal or animals shall forfeit and pay, for the use and benefit of the government of Hawaii, the sum of one dollar per head, excepting sheep and goats, for which they shall pay fifty cents per head. And if any trees or plants growing upon said lands be injured or destroyed, or the grass be uprooted or damaged by such animal or animals, the owner or owners thereof shall pay, for the use and benefit of the government of Hawaii, the full amount of any such damage, to be recovered before the district court in Honolulu, if the amount claimed shall not exceed five hundred dollars.

§ 527. And be it further enacted, That the agent or luna appointed by the superintendent of public works to take charge of said government lands shall be, and is hereby, authorized to sue for and recover such damages in his own name to the use and benefit of the government of Hawaii.

§ 528. And be it further enacted, That all such damages recovered shall be applied by the superintendent of public works for the purpose of protecting said government lands and guarding the same against trespass.

§ 529. And be it further enacted, That if the owner or owners of such animal or animals neglect or refuse to pay for such trespass after demand made by such agent, and said animal or animals shall be taken to the government pounds, then all subsequent proceedings relative thereto shall be regulated by the general law on the subject in chapter 36.

NOTE TO CHAPTER 41.

§§ 524–525 are S. L. 1860, amended S. L. 1878, ch. 30, C. L., p. 500.
§§ 524–525 are S. L. 1868, C. L., p. 503. §§ 526–529 are S. L. 1880, ch. 42, C. L., p. 503.
The following special acts relating to water works have been omitted in this compilation.

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Hilo (franchise to S. G. Wilder), S. L. 1887, ch. 33.
North Kohala, S. L. 1890, ch. 39.
Wailuku, S. L. 1890, ch. 59, and S. L. 1892, ch. 100.
Hamakua (franchise to F. A. Schaefer and Samuel Parker), S. L. 1890, ch. 77.
Cases in Hawaiian Reports: Herring v. Gulick, 5 Haw., 58.

CHAPTER 42.

THE CONSTRUCTION OF RAILWAYS.

WHEREAS good roads are absolutely necessary to develop the resources of many parts of the Territory, and railroads are essential to bring produce to safe ports. Therefore,

Be it enacted, etc.

§ 530. Power and authority is hereby given to the superintendent of public works, by and with the consent of the governor, to enter into contract with any association of persons who may associate themselves together under the general corporation act (chapter 127) of this Territory, and by the general law in relation to corporations and subject to all the provisions thereof, for the purpose of building and operating a railroad or railroads in any part of this Territory.

§ 531. And said superintendent, with the consent of the governor, shall have power and authority to grant a right of way through all government lands, and to grant such government lands as may be necessary for their buildings, stations, depots, and stores, or other structures, and also the free use of water, to any corporation as aforesaid for the purpose of building such railroad or railroads.

§ 532. For the purposes and subject to the provisions and restrictions of this chapter, the corporation may, from time to time, exercise any of the following powers:

It may enter upon any lands which may adjoin upon the line of any railway which may be authorized by charter to be made, and may bore, dig, cut, trench, embank, and drain, and may remove or lay, take, carry away, and use any earth, gravel, stone, timber, or other things dug or obtained therein or otherwise in the execution of any powers hereafter given, and which may be proper for the making, maintaining, altering, repairing, or using any railway lawfully authorized, or which may obstruct the making, maintaining, altering, repairing, or using of the same.

It may make, in, upon, across, under, or over any such lands, or any street, roads, ways, railroads, tramways, hills, valleys, rivers, canals, water courses, or waters, such temporary or permanent inclined planes, tunnels, cuttings, embankments, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, arches, fences, and other work and conveniences as it thinks proper.

It may alter the course of any rivers not navigable, canals, brooks, streams, or water courses during such times as is necessary for constructing or maintaining tunnels, bridges, or other works over, under, or affecting the same; and may temporarily or permanently alter the course of any such rivers or streams, or raise or sink the level of any such rivers or streams, streets, roads, or ways, in order the more conveniently to carry the same over or under or by the side of any railway.

It may make drains or conduits into, through, or under any lands adjoining the railway for the purpose of conveying water from or to the railway, and upon the railway, or any lands adjoining or near thereto.

It may make such piers, jetties, stations, sidings, wharves, warehouses, toll houses, and other houses, yards, engines, machinery, signal

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posts, and other apparatus, works, and conveniences whatsoever connected with the railway as the corporation may think proper, and may from time to time alter, repair, or discontinue any such apparatus, works, and conveniences, and substitute others in their stead.

It may fell or remove any timber or other trees being within two hundred feet from either side of the railway which, by their liability to fall or otherwise, might obstruct or injure the railway.

It may also fell or cut down and remove any trees or wood, whether timber or other trees, or scrub or underwood, which, by reason of the line making a curve or otherwise, may obstruct or impede a view of any signal post from any portion of the line which shall be within one mile in a right line from any such signal post.

It may enter upon and use any existing private road, being a road graveled or formed with stones or other hard material, and not being an avenue or approach to any dwelling house.

It may enter upon and take, purchase, and hold all such lands, tenements, and hereditaments as may be required for the purposes of the railway and works connected therewith.

It may do all other things necessary or convenient for making, maintaining, altering, or repairing and using the railway.

§ 532A. But nothing in this chapter shall be construed to authorize any such corporation to enter upon or take any tide waters, nor to in any wise hinder, obstruct, or interfere with navigation in or upon any public navigable waters, nor to erect, build, or maintain any pier, jetty, or wharf in, upon, or over any harbor, bay, or river beyond high-water mark.

§ 533. In the exercise of the powers mentioned in the last preceding section the corporation shall do as little damage as can be; and shall make full compensation, in manner in this act provided, to all parties interested for all damage sustained by reason of the exercise of such power.

§ 534. The lands to be taken or used for the line of any railway lawfully authorized shall not exceed one hundred feet in width, except where greater width is necessary for engines or carriages to turn, stand in, or pass each other, or for stations, or for raising embankments, or for crossing valleys or low grades, or for cutting through high grounds, or for the erection or establishment of any fixed or permanent wharf, warehouse, toll house, machinery, or other building or erection, or for excavating, removing, or depositing earth or other material.

§ 535. Subject to the restrictions hereinafter mentioned, the corporation may, without previous payment, tender, or deposit, enter upon and use any lands adjoining or lying near the railway for the purpose of taking earth or soil by side cuttings therefrom, or of depositing, working, or manufacturing upon such lands any earth, clay, stones, brick, slates, timber, lime, or other materials, or of obtaining materials therefrom for the construction or repair of the railway or works, or for making temporary roads or approaches to or from the railway or works, or for any other purpose necessary to the construction and maintenance of the railway.

§ 536. Before it makes such temporary use of any such lands, the corporation shall give twenty-one days' notice of such intention to the owners or occupiers of such lands, except in the case of accident, the railway requiring immediate reparation, or where the owners can not be ascertained; and shall separate, by sufficient railings or fences, so much of the lands as is required to be so used from the other lands adjoining thereto.

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§ 537. The corporation shall not make such temporary use of any such lands lying at a greater distance than one hundred feet within a town or three hundred feet elsewhere from the railway, or make bricks or place a steam engine upon any of such lands at any place not distant at least five hundred yards from any dwelling house, without the consent of the owner or occupier thereof.

§ 538. The corporation shall, until any land taken by it for temporary use be given up to the owner, or purchased by it under the provision hereinafter in this chapter contained, pay to the owner, half yearly, reasonable compensation for the use of such land and for any damage or injury done to the crop or to the surface of the land or otherwise; and such compensation shall be settled—if the corporation can not agree with the owner—as in the case of disputed compensation; but in determining the amount of such compensation no payment or allowance shall be made for the earth, gravel, or other materials taken, further or otherwise than as the removal or taking thereof shall or may have injuriously affected the value of the land or the occupation or enjoyment thereof.

§ 539. Except in the case of such accident as aforesaid, no stone quarry which, for the period of twelve months immediately preceding, shall have been commonly worked or used for getting materials for the purpose of selling the same, shall, without the consent of the owner and occupier thereof, respectively, be taken or used for any of the purposes hereinbefore mentioned.

§ 540. The compensation to be paid for any lands to be purchased or taken from any person under any disability and not having power to sell and convey or release such lands, except under this chapter, and the compensation to be paid for any damage or injury to any such lands, may be agreed on between the corporation and such persons.

§ 541. When the corporation gives notice of its intention to take any lands for railway purposes, and failing to agree as to the compensation to be paid in respect thereof, the compensation is to be determined as in cases of disputed compensation, if the corporation deem it inexpedient to pay the amount of compensation so determined, the corporation may, within twenty days after notice to it of the amount of compensation so determined, withdraw the said first-mentioned notice.

§ 542. In every case of disputed compensation for lands required for railway purposes the person claiming the compensation shall deliver to the corporation a statement in writing of the estate or interest or of the damage or injury in respect of which he claims compensation, and of the amount which he is willing to accept in full for such compensation; and every such statement so delivered shall be preserved by the corporation, and every such dispute may, by agreement between the claimant and the corporation, be referred to the arbitration of two persons, one of whom shall be appointed by the corporation and the other by the person claiming the compensation; and in case of difference between them, of some person to be appointed by the other two before entering upon the reference.

§ 543. In every case of disputed compensation not so referred to arbitration, either of the parties in difference, and in every case in which the person entitled to compensation is absent from this Territory or is not known to the corporation, or can not after diligent inquiry be found, or an agreement as to compensation is not come to, then the corporation may apply in the case of a claim against it to any justice of the supreme court, to nominate some persons to determine the amount of compensation to be paid to the person claiming or entitled

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to compensation; and the persons so nominated shall determine and award on the matter as the sole arbitrator thereon.

§544. Before making any such application, either party shall give at least fourteen days' notice to the other of the intention to make such application, or where the person interested in the compensation is absent from this Territory, or is not known to the other party in difference, or can not, after diligent inquiry, be found, notice of such intention shall be given by advertisement in two newspapers published in Honolulu fourteen days at least before making such application, and every such notice shall describe the land in respect of which compensation is to be assessed and shall specify the time and place at which such application will be made.

§545. The nomination by any justice of a person to be such sole arbitrator shall be made in writing and in duplicate, and shall be delivered to each party, if known and resident within this Territory.

§546. In determining the value of the land taken and the damage (if any) to be sustained by reason of the severing of the lands taken from other lands of the same owner, or of such other land being otherwise injuriously affected by the exercise of the powers of this chapter, the enhancement of the value of such other lands by railway or otherwise shall be taken into consideration in the reduction of the amount which would be otherwise awarded.

§547. Every award in cases of disputed compensation shall state whether there are any lands of the same owner adjoining the lands taken or to be taken; and if there be any such adjoining lands, what allowance (if any) has been made for the enhanced value of the same; and if no such allowance is intended to be made, the award shall so state; and if any award shall omit any statement hereby required to be made the same shall be void. And every such award may be made a rule of the supreme court and enforced accordingly.

§548. Where lands are acquired by the corporation under the provisions of this chapter, but are not required for the purposes thereof, the corporation, within the prescribed period, or if no period be prescribed, within ten years after the expiration of the time limited by the charter for the completion of the works, shall absolutely sell and dispose of all such superfluous lands and apply the purchase money arising from such sale to the purpose of the charter, and in default thereof all such superfluous lands remaining unsold at the expiration of such period shall thereupon vest in and become the property of the owners of the lands adjoining thereto in proportion to the extent of their lands, respectively, adjoining the same.

§549. Before the corporation dispose of any such superfluous lands, they shall, unless such lands be situated within a town, or be lands built upon or used for building purposes, first offer to sell the same to the person then entitled to the lands (if any) from which the same were originally severed; or if such person refuse to purchase the same, or can not, after diligent inquiry, be found, then the like offer shall be made to the person or to the several persons whose lands shall immediately adjoin the lands so proposed to be sold, such persons being capable of entering into a contract for the purchase of such lands; and when more than one such person shall be entitled to such right of preemption, such offer shall be made to such persons in succession, one after another, in such order as the corporation shall think fit.

§550. If any such persons be desirous of purchasing such lands, then within six weeks after such offer of sale they shall signify their desire in that behalf to the corporation; or if they decline such offer, or if for

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six weeks they neglect to signify their desire to purchase such lands the right of preemption of every such person so declining or neglecting in respect of the lands included in such offer shall cease; and a declaration in writing made before a justice by some person not interested in the matter in question, stating that such offer was made and was refused or not accepted within six weeks from the time of making the same, or that the person or all the persons entitled to the right of preemption were out of the country, or could not, after diligent inquiry, be found, or were not capable of entering into a contract for the purchase of such lands, shall, in all courts, be sufficient evidence of the facts therein stated.

§551. If any person entitled to such preemption be desirous of purchasing any such lands, and such person and the corporation do not agree to the price thereof, then such price shall be ascertained by arbitration, and the costs of such arbitration shall be in the discretion of the arbitrators.

§552. The corporation shall fence in the line of railway with a good and sufficient legal fence.

§553. The corporation may, from time to time, make by-laws and regulations for the management and control of the railway and for regulating the traffic thereon; and such by-laws and regulations, on being approved by the governor, shall have the force of law. Provided, the corporation shall, at all times, cause a copy of such by-laws and regulations to be posted and exhibited at the principal stations on the line of railway.

§554. Any person violating any by-law or regulation approved as aforesaid shall be subject to a fine not exceeding twenty-five dollars and costs, and in default of payment shall be imprisoned for any term not exceeding three months.

§555. District magistrates shall have jurisdiction to hear and determine all cases arising under this statute or the by-laws and regulations made under the authority thereof.

§558. And be it further enacted, that any corporation which may be organized and undertake the building of any railroad or railroads, in pursuance of the authority of this chapter, and in accordance with it, may issue bonds to raise money for the construction of such railroad or railroads, in such sums as may be convenient.

§559. And be it further enacted, that the aid by this chapter contemplated shall be only extended to railroads of public utility, and not to railroads of mere private or limited convenience.

NOTE TO CHAPTER 42.

§§530–559 are S. L. 1878, ch. 29, (§§556–557 amended S. L. 1880, ch. 41). C. L., p. 619. §532 A is S. L. 1898, Act 52.

CHAPTER 43.

OAHU RAILWAY.

§560. Power and authority are hereby given to the superintendent of public works, by and with the consent of the governor, to contract with B. F. Dillingham, his associates and successors and their assigns, or such corporation as shall be formed and organized by him or them under the laws of this territory, providing for the establishment of private corporations for the constructing and operating on the Island of Oahu a steam railroad or railroads of not less than three feet gauge, for the carriage of passengers and freight:

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Provided, however, that if said Benjamin F. Dillingham, his associates and successors or their assigns, or such corporation, shall fail, within eighteen months from the passage of this chapter, to give satisfactory guarantees to the Government that he or they are able to and will construct and put into operation within three years from the approval of this chapter, a steam railroad connecting Honolulu with Pearl River Lagoon. The said superintendent may contract with any Hawaiian corporation for the construction and operation of any steam railroad in this chapter authorized upon the terms and conditions herein expressed.

§561. The said superintendent may, by such contract as aforesaid, confer upon Benjamin F. Dillingham, his associates and successors and their assigns, or any such corporation as shall be formed or organized by him or them as aforesaid (hereinafter referred to as such company), all such rights and privileges as to the acquisition of rights of way and other privileges for the construction, maintenance, and operation of such roads, together with all depots, stations, yards, crossings, wharves, and equipments as are set forth in chapter 42, except as the same are modified by the provisions of this chapter. Such contract shall secure to said company the exclusive right for twenty years from the date of this chapter, to maintain and operate a steam railroad or railroads between such points as they shall, within three years from the passage of this chapter, connect by such railroad, provided such railroad shall not be less than fifteen consecutive miles in length; and further provided, that such exclusive right shall not apply to the district of Kona, in said Island of Oahu.

§ 562. Such company shall be authorized to construct, maintain, and operate a steam railroad or railroads on the Island of Oahu, from and between such points thereof as shall be expressed in such contract with said superintendent and in its charter of incorporation, subject to the conditions and restrictions in this chapter contained: Provided, that the speed of any such company's rolling stock upon any street or thoroughfare of said island, except in crossing the same, shall not exceed the rate of four miles per hour, under penalty of five hundred dollars, to be paid by such company to the Government of Hawaii for each violation of this condition.

§ 563. The location, maps, and charts and plans for the construction and equipment of all roads hereby authorized shall be submitted to the governor for his approval, and such approval shall be certified by the signature of the governor.

§ 564. Not more than six cents per mile for first-class and four cents per mile for second-class passengers shall be charged as fare upon any road hereby authorized.

§ 565. Such company may enter upon, lease, purchase, and hold any and all such lands, tenements, hereditaments, and easements as shall be required for the construction, maintenance, and operation of its road, after the location of such road has been approved by the governor, but subject to the provisions hereinafter contained.

§ 566. The lands to be taken for the line of such road shall not exceed forty feet in width, unless a greater width shall be required for embankments, cuttings, gravel pits, sidings, stations, yards, and like purposes.

§ 567. No land, easements, or other property right shall be taken by such company until it shall have given at least thirty days' notice in writing to the occupant, and also to the owner and lessee (if any) of such land (if such owner or lessee can be found), of its intention to take such land, describing it, for the purposes of its road. For the purpose of receiving such notice, the superintendent of public works shall be deemed the owner of all Government land.

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§ 568. In addition to such notice as aforesaid, such company shall publish in at least four successive issues of two weekly newspapers published in Honolulu, one of which newspapers shall be printed in the Hawaiian, and one in the English language, a notice of its intention to take such land or other property right for the purposes of its road. Such notice shall describe with reasonable accuracy and detail the land or other property right which is proposed to be acquired, and shall contain the names of all parties beneficially interested in such land as owners, lessee, occupant, or the like, where the names of such interested parties, or any of them, are known to such company.

§ 569. Where the land or other property right sought to be acquired is in the possession or control of the agent, attorney, trustee, guardian, or other representative of the owner thereof, such representative shall receive notice of the intention of such company to acquire the same, in manner as provided in section 567 hereof.

§ 570. Such company shall pay to the owner of any land or other property right so taken by it, or to his legal representative, the full value of the same, to be computed as of the time when such notice of intention to take the same is served. In case of a disagreement as to such value, such company shall tender to such owner or his representative, if an owner or his representative can be found, such amount as it shall deem such land or other property right to be worth.

§ 571. If such owner or his representative is dissatisfied with the amount so tendered by such company, he may, within twenty days from the date of such tender, demand of such company to have such land or other property right appraised by three disinterested appraisers, one of whom shall be chosen by each of the parties, and the third by the two so chosen. And such company, before entering upon such land, or appropriating such other property right, shall tender to the owner thereof or his representative the amount appraised upon the same by a majority of such appraisers, and shall pay the costs of appraisal if the amount so found is greater than the amount first tendered, but otherwise may deduct the costs of appraisal from the amount so found. If such owner or representative shall refuse to receive the amount so found and tendered, the same shall be paid into the supreme court, subject to the order of such owner or representative, before such company shall take possession of such land or other property right.

§ 572. If such owner or representative shall fail to demand an appraisal, as hereinbefore provided, or having demanded, shall for ten days refuse to accept the amount found by and upon such appraisal, such company may at once thereafter enter upon and occupy such land or other property right, without liability to pay as damages any amount exceeding the value thereof at the time of the service of the notice first herein mentioned, unenhanced by any value such road may confer thereon, but nothing herein contained shall be construed to prevent the recovery from such company of damages for any act of trespass in excess of the just demand of its enterprise, nor any damages resulting from its failure to fence its line (without any obligation upon contiguous owners to assist in building or contribute to the building of such fences) within six months of the date of its taking possession thereof, or its failure to keep closed, or to construct effectual cattle guards upon all gaps made by it in the fences of property through which its line shall pass, from the time of its taking possession of the same.

§ 573. If the owner of such land or other right of property which such

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company shall wish to acquire for the purposes of its road, shall be nonresident in this Territory and his place of residence shall not be known, and he shall have no legal representative, attorney, or agent in this Territory, or if such owner is not known or can not be found, or is incompetent to make a contract, such company shall deposit in court, to the credit of such owner, an amount equal to a fair valuation of such land or property right, and may thereupon at once take possession of the same. Such owner or his representative may, at any time within twenty years after the taking of such possession, demand such appraisal or otherwise enforce the collection of the true value of his property so taken, as herein provided.

§ 574. Nothing in this chapter, nor in said chapter 42, shall be construed to deprive any person of the right to maintain an action at law against any railroad company or corporation for the value of any land or property which shall be taken by such company or corporation under the powers conferred by this chapter and used for railroad purposes.

§ 575. Such company shall be bound to accept and convey, for a reasonable compensation, all traffic of any and all other connecting railroads or other common carriers. In case of a disagreement as to the amount of such compensation, each party may appoint an arbitrator, the superintendent of public works shall be the third arbitrator, and such arbitrators or a majority of them may fix a tariff upon any kind or class of traffic submitted to them. Such tariff schedule shall be final and binding upon all parties in interest until the same shall be revised or amended by the same or other arbitrators thereto duly appointed, such arbitrators may, from time to time, add to such schedule any kind or class of traffic not included therein, but no revision of rates shall be made during one year after the same shall be so fixed. Other arbitrators may be, from time to time, appointed for the purpose of revising or extending such schedule, except as hereinabove provided, and the said superintendent shall be a member of any board of arbitrators so appointed.

§ 576. Such contract, as herein authorized, may contain a provision for the remission of all or any portion of the taxes upon the property of such company for any period not to exceed twenty years: Provided, That no taxes shall be so remitted upon any property not fairly necessary to the reasonable construction, maintenance, and operation of the road of such company.

§ 577. It shall not be competent for said superintendent, by such contract, to pledge the Government to the payment of any subsidy to the constructors of any railway herein authorized.

§ 578. As to any points upon said island which shall not be connected by the railroads of such company within three years from the passage of this chapter, and as to all and any points within said district of Kona, said superintendent may contract with any Hawaiian corporation for the construction of any railroad hereinabove authorized upon the terms and conditions herein expressed.

WHEREAS doubts have arisen as to the right of the Oahu Railway and Land Company to mortgage its franchises as security for the payment of its bonds; Now, therefore,

Be it enacted, etc.:

§ 579. That the Oahu Railway and Land Company has, and shall hereafter have and possess full power to mortgage its franchises and other property, to secure the payment of its bonds and other monetary obligations, and the government of Hawaii shall not question or resist the validity of any mortgage or other conveyance of the

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franchise of said company either heretofore made or which shall hereafter be made for any of the purposes named.

§ 580. The time granted for the construction of steam railroads on the Island of Oahu, as prescribed by section 561, is hereby extended to November 2, 1903, and the time of the exclusive franchise therein named to September 11, 1938: Provided, That such extension of exclusive franchise shall apply only to such portions of railroad as said company shall construct in the districts of Waianae, Waialua, Koolauloa, and Koolaupoko, or any of said districts.

§ 581. For each mile of the main track hereafter constructed under this act, after the completion of the Pearl River division by the said Oahu Railway and Land Company, the government of Hawaii shall pay a subsidy of seven hundred dollars each year, until the expiration of five years from the date of construction thereof.

§ 582. In order that the government of Hawaii may be from time to time apprised of whatever amounts shall or might become payable hereunder, the said Oahu Railway and Land Company shall, after the close of each quarter year, make a written statement or exhibit of the number of miles of railroad by it constructed ready for operation during the quarter year next preceding. Such statement or exhibit shall be sworn to and filed with the superintendent of public works, and said superintendent, or some person appointed by him, shall have the right at all times to examine and inspect the books of the company.

§ 583. The treasurer is hereby authorized and directed to pay whatever amounts may become due and payable to the Oahu Railway and Land Company under the provisions of section 581. Such payments shall be made to the Oahu Railway and Land Company or such persons as it may designate upon the draft of the superintendent of public works. Before payment of such subsidy reasonable guarantees may be required that the main track has been duly constructed, finished, and equipped.

§ 584. Nothing in sections 580 to 584 contained shall be held to interfere with the right of said Oahu Railway and Land Company to exercise all of the rights, powers, and privileges granted by sections 560 to 578, or by the general railway law of the Territory, except as to exemption from taxes.

NOTE TO CHAPTER 43.

§§ 560-578 are S. L. 1888, ch. 62. § 579 is S. L. 1892, ch. 65. § 580 is S. L. 1898, act 41. §§ 581-584 are S. L. 1890, ch. 31. § 20 of S. L. 1888, ch. 62, was repealed S. L. 1892, ch. 97.

Cases in Hawaiian reports: R. R. *v.* Brown, 8 Haw., 163; R. *v.* Poor, 8 Haw., 524; Re Cabinet, 8 Haw, 568.

CHAPTER 44.

HAWAIIAN TRAMWAYS COMPANY.

§ 585. The right is hereby granted to William R. Austin and his associates and assigns or such corporation as may be incorporated or organized by him or them to construct, lay down, maintain, and operate, for the term of thirty years from the passage of this chapter, a single-track street railway, with all the necessary curves, switches, and turn-outs, or double-track street railway, along and upon the following streets in the city of Honolulu: Commencing at the junction of King street and Nuuanu street, thence easterly along King street and the Waikiki road to Kapi-

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olani Park; from the aforesaid junction along King street westerly to Moanalua; from the aforesaid junction northerly along Nuuanu street to the Pali. Also from the junction of Judd street with Nuuanu street, along Judd street to Liliha street, and along Lilaha street to its junction with King. Also from the junction of Beretania street with Nuuanu street, along Beretania street to Punahou street, and along Punahou street to Manoa road, and along Keeaumoku street, from Beretania to King street. Also from the junction of Alakea street with King street, northerly along Alakea street to Beretania street, and southerly along Alakea street to the mauka side of the street along the water front, and along Allen street to custom-house.

§586. Except as herein otherwise provided, the rights and privileges mentioned in the foregoing section are granted to the said Wm. R. Austin and his associates and assigns upon such terms, conditions, and restrictions as are now imposed or may hereafter be imposed by the laws of the Territory of Hawaii in relation to the matter of constructing and maintaining street railroads in the cities of said Territory, and a strict compliance on the part of said William R. Austin, his associates, assigns, and successors, with all the provisions of such laws is hereby required.

§587. The legislature of the Territory of Hawaii, or the superintendent of public works, when authorized thereto by the legislature, may grant to one other corporation and no more the right to use either of the aforesaid streets for a distance of seventeen hundred feet and no more, upon the following conditions: That each company, person, or corporation using the said track jointly shall pay an equal portion for the construction and maintenance of the portion of the track so used jointly.

This section shall apply to persons and companies as well as corporations.

§588. Whenever said William R. Austin, his associates, assigns, or successors, shall elect to operate said railways or either of them in whole or in part by the use of an endless wire rope or cable and stationary steam engines, it shall be lawful for him or them to make all needful and convenient trenches and excavations in any of such streets under which he or they propose to place such rope or cable; and to place in such trenches and excavations all needful and convenient machinery for operating said railways in the manner and by the means aforesaid, and to erect and maintain at convenient and suitable points along the line of the streets under which such wire cables are placed steam and other engines and boilers of ample and sufficient power and to connect the same with said wire cables. All such trenches and excavations shall be beneath the surface of the street, which surface shall be securely supported so as not to impair the use and enjoyment of said streets by the public. And the framework of all trenches in which wire cables are placed shall be constructed in a substantial and workmanlike manner, and the slot or aperture opening into such trenches shall not exceed three-fourths of an inch in width.

§589. It shall not be lawful for said William R. Austin and his associates and assigns or successors to propel the cars over said railways or either thereof at a rate of speed exceeding eight miles an hour, and for each violation of this provision he or they shall be subject to a penalty of one hundred dollars, to be recovered in the district court of Honolulu at the suit of the attorney-general of the Territory to the use of the Government.

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§ 590. Said William R. Austin, his associates and assigns or successors, shall be required by the superintendent of public works—

Firstly. To construct said railway in such manner as will cause the least obstruction to the free use of the streets in which it may be laid down.

Secondly. To construct said tracks, as nearly as possible, in the middle of the said streets, unless otherwise directed by the superintendent of public works.

Thirdly. To pave or macadamize the entire length of the streets used by his or their track between the rails and between the tracks, if there be more than one track laid; and to keep the same constantly in repair flush with the streets, and with good crossings; such materials shall be used in such paving, macadamizing, or repairing as may be directed or permitted by the superintendent of public works.

Fourthly. That said tracks shall not exceed in width sixty inches within the rails. The rails used in making such track shall be flat rails only, and in no case shall the use of T rails be allowed.

Fifthly. That in laying down the track not more than one block shall be obstructed at one time nor for a longer period than fifteen working days.

Sixthly. That the cars must be of the most approved construction for comfort and convenience and safety of passengers.

Seventhly. That the said railway must be completed and equipped and ready for transportation of passengers within two years, and if not so completed within the said two years then all rights hereby granted shall terminate and the franchise hereby granted become void and of no effect. Provided, That for such portions of said road as shall at the time be completed and equipped as above required, the right herein granted shall stand and be of full force and effect.

§ 591. A failure on the part of the said William R. Austin, his associates and assigns or successors, to comply with the provisions of this chapter shall work a forfeiture of the right of way and of the franchise granted upon such streets as are not occupied by track at the expiration of three years.

§ 592. The right to grade, sewer, pave, macadamize, or otherwise improve, alter, or repair the streets or highways is reserved to the government and can not be alienated or impaired, but such work shall be done in such manner as to obstruct the railroad as little as possible; and if required the grantees of the franchise must shift the rails so as to avoid the obstructions made.

§ 593. If said railroad or any agent or employee thereof shall demand or charge a greater sum of money for fare on the cars of such railroad than that fixed by this bill, said railroad or such agent or employee shall forfeit to the person who is thus overcharged the sum of one hundred dollars, to be recovered in a civil action in any court having jurisdiction thereof.

§ 594. Upon the trial of an action for any of the sums forfeited, as provided in the foregoing section, proof that the person demanding or receiving the money as fare, or for the sale of a ticket or check, was at the time of making the demand or receiving the money engaged in an office of the railroad or on a vehicle belonging to it shall be *prima facie* evidence that such a person was the agent, servant, or employee of the corporation to receive the money and give the ticket or check mentioned.

§ 595. Said William R. Austin, his associates and assigns or successors, shall pay in annual payments to the department of the interior

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the sum of ten dollars per annum as a license tax upon each passenger car used by him or them, and no greater sum shall be exacted as car license.

§ 596. The rates of fare for each passenger upon the said railroad shall not exceed five cents for each passenger using said cars up to and within Judd street, the Industrial School, and to and within Punahou street, and ten cents for each passenger using said cars beyond the last mentioned points.

§ 597. The rails of said railroad shall be so laid and the track so constructed that the same shall not interfere or prevent any other railroad company hereafter formed from crossing the roads herein mentioned at any point.

At the expiration of the franchise herein granted it shall be the privilege of the government to purchase from the owners the tracks, cars, stock, and fixtures of said owners at a price to be fixed by arbitrators and an umpire, if need be.

This chapter shall take effect and the time named in section 590 shall begin from the passage and approval of this chapter.

§ 598. Whereas it appears that sections 585-597 have expired by their own terms, the said sections as amended are hereby reenacted.

§ 599. The time for the completion and equipment of the railway authorized by Chapter XXXIV of the Session Laws of 1884, reenacted by Chapter XVIII of the Session Laws of 1886, is hereby extended to William R. Austin, his associates and successors and their assigns, until the fifteenth day of September, A. D. 1889.

§ 600. There is hereby granted to William R. Austin, his associates and successors and their assigns, hereinafter named the grantees, the right and privilege, subject to the requirements of sections 585 to 596, and the provisions of this act expressed, at any time prior to the 15th day of September, 1889, to construct, maintain, and operate a single track street railway, with all necessary curves, switches, and turnouts, except as hereinafter prohibited upon a portion of Fort street; in, along, and upon the following streets of the city of Honolulu, namely: Along the Esplanade from the foot of Fort street to the foot of Alakea street; on Queen street, from Alakea street to Nuuanu street; on Nuuanu street, from Queen street to King street; on School street, from Punchbowl street to Liliha street; and on Fort street, from the water front to School street. Along the water front between Fort and Alakea streets, and along Fort street from the water front to Queen street a double track may be laid.

§ 601. The right and privilege hereinabove granted is subject to each of the conditions hereinafter in sections 602, 603, and 604, expressed as on the part of the said grantees, to be observed and performed, and the entry of said grantees upon any of the streets hereinbefore mentioned and described, for the purpose of constructing such road, or any part thereof, shall be construed as an acceptance by them of the said conditions, that is to say:

§ 602. Said grantees shall construct, equip, and put into operation, in a substantial and reasonable manner, prior to the 15th day of September, 1889, a street railway upon and along Punahou street, from the point of said grantees' railway on either King street or Beretania street as far northerly as the grounds of Oahu College.

§ 603. Said grantees shall, at all places where their road shall run, whether upon the streets named in section 600, or upon any other street or road in said Honolulu, upon which they are or shall hereafter be authorized to construct, and shall construct their road, at their own

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expense maintain the surface of the street or bridge flush with the rail surface of their road, both between the rails thereof, and for a distance of not less than two feet on the outside of each of such rails, and also the entire space between the tracks where it has more than one track; but macadam stone if the government has it in stock, or if it is not in stock, the use under the control of the government, stone crusher and plant and materials, and the use of the steam roller and the water cart shall be supplied to said grantees by the government, for such purpose at net cost, free from any charges for profit or depreciation of plant.

§ 604. Said grantees shall not lay or construct any double track or siding on that portion of Fort street lying between Queen street and Beretania street.

§ 605. If said grantees shall fail, neglect, or refuse to observe and perform any of the conditions in sections 600–604, as expressed on their part, to be observed and performed, within the time herein limited for the performance thereof, then all the rights and privileges by said sections conferred shall lapse and become void, upon a decree to that effect being made by any court of competent jurisdiction. But nothing herein contained shall be construed to exempt said grantees from the obligation to maintain the surface of all streets and bridges, wherein or whereon any of their roads shall be constructed, in manner as expressed in section 603, while such railway shall remain in or upon such street or road.

NOTE TO CHAPTER 44.

§§ 585–597 are S. L. 1884, ch. 34, amended as follows:
§ 585, § 590, and § 597 by S. L. 1886, ch 18. § 598 is S. L. 1886, ch. 18. § 599 is S. L. 1888, ch. 23. §§ 600–605 are S. L. 1888, ch. 56.
The right to use electric power, granted by S. L., 1890, ch. 74, and S. L., 1895, act 24, expired January 1, 1897.
Cases in Hawaiian Reports: Govt. v. Tramways Co., 7 Haw., 684; R. v. Wall, 7 Haw., 760; Re Tramways Co., 9 Haw., 281; Dickey v. Tramways Co., 10 Haw., 373; Ballou v. Tramways Co., 10 Haw., 376; Dickey v. Tramways Co., 10 Haw., 387; Tramways Co. v. Sturdevant, 10 Haw., 597.

CHAPTER 45.

PRODUCTION OF ELECTRICITY, HONOLULU.

DEFINITIONS.

§ 606. Wherever in this chapter the word "superintendent" is used, it shall mean the superintendent of public works of this territory. Wherever the word "contractor" is used, it shall mean the purchaser of franchise hereinafter provided for who has entered into a contract with the superintendent of public works in accordance with the terms of this chapter.

SALE OF FRANCHISE AT AUCTION.

§ 607. The superintendent of public works is hereby directed to sell at public auction to the highest bidder, as soon as the necessary arrangements can reasonably be made, the exclusive right and franchise to furnish and supply electric light and electric power, except as hereinafter provided, within the district of Honolulu during the term of ten years from the date of such sale. In case there shall be no sale of such franchise, the superintendent may thereafter from time to time readvertise the same for sale in the manner hereinbefore set forth.

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The said superintendent shall advertise the time, place, and conditions of such sale for not less than sixty days in one or more newspapers published in Honolulu in the English language.

§608. The upset price of such franchise shall be two and one-half per cent of the gross receipts of the contractor from all electric light and power furnished to consumers; and bids for such franchise shall be for the percentage of such gross receipts which the bidder is willing to pay to the government over and above such percentage: *Provided, however*, That the contractor shall be exempt from paying such percentage of receipts for the first two years of such contract.

§609. Before any such franchise shall be knocked down at such sale to any bidder, such bidder shall deposit with the superintendent, in cash, or a certified check on a Honolulu bank, the sum of five hundred dollars, which shall be forfeited to the Government if such bidder fails to execute the contract hereinafter provided for.

CONTRACTOR'S OBLIGATION AND BOND.

§610. A contract shall be entered into between the superintendent and the purchaser of such privilege. There shall be included in the terms of such contract, in addition to the other requirements herein contained, an agreement by the holder of the franchise, that within two years from the granting of such franchise such contractor shall be able to and will furnish to all applicants at any point within the following-described district all the electric power and light which any applicant in such district may *bona fide* apply for, viz:

Beginning at a point on the seashore east of Honolulu, where a line drawn in extension of Punahou street meets the sea; thence running mauka along such line to and along Punahou street to Wilder avenue; thence westward along Wilder avenue to the street highest up the slope of Punchbowl; thence around the base of said hill on the same level to a point in line with the extension of School street; thence to the junction of School and Punchbowl streets; thence along Punchbowl street to the bridge across Pauoa stream; thence in a straight line to the east end of Judd street; thence along Judd street to Liliha street; thence along Liliha street and a line drawn in extension thereof to the seashore; thence along the seashore to the point of beginning. Provided, however, that the contractor shall not be required to run special wires over 1,000 feet in length for the furnishing of lights or power until the applicant or applicants shall apply for at least fifty sixteen-candlepower lights, and have first wired the premises proposed to be lighted, or prepared the apparatus necessary to utilize the power applied for; and in no case shall a contractor be obliged to run wires until the applicant or applicants shall have agreed to take at least five lights at schedule rates for not less than one year.

And provided further, that if the contractor is unable to furnish power or light applied for by reason of lack of capacity of the apparatus for producing electricity, such contractor shall be allowed a reasonable time, not to exceed nine months from the date of any application, to procure such additional apparatus as may be necessary to furnish such applicant.

§611. Before any franchise herein provided for shall be granted, the person or company to whom the same is proposed to be granted shall file with the superintendent a bond in the sum of five thousand dollars, with two sureties, conditioned to properly carry out the terms of the contract herein provided for, and to observe all of the terms and

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conditions of this law. Each of such sureties shall be the owner of unencumbered real estate in this territory of the value of not less than twenty-five hundred dollars, or the owner of unencumbered personal property in this territory of the value of not less than five thousand dollars.

If at any time either of such sureties shall fail to comply with such property requirement a further surety or sureties shall forthwith be furnished by the holder of the franchise.

A deposit of twenty-five hundred dollars with the superintendent of public works may be made by the holder of the franchise to secure the execution of the condition of the bond, in lieu of the sureties above provided for, at the option of the holder of such franchise.

RULES AND REGULATIONS.

§ 612. The superintendent is hereby authorized to make and from time to time change, amend, or add to, all rules regulating the placing of poles and wires, the insulation of wires and apparatus carrying the electric current, the maintenance in good repair of all poles, wires, and apparatus, and generally concerning the manufacture and supply of electricity, which may be necessary or proper for the public safety and welfare.

Such regulations shall, after publication, have the force of law.

Nothing herein contained, however, shall authorize the superintendent to require the wires to be placed underground.

§ 613. If the poles, wires, or apparatus of any contractor do not comply with such regulations, or there is any other infraction of such regulations, the contractor, or the person causing such infraction, shall be liable to a fine of not less than twenty-five nor more than five hundred dollars for each noncompliance or infraction.

§ 614. If at any time the contractor shall fail to observe or execute the rules and regulations or directions herein authorized, the superintendent may, in his discretion, after giving such contractor notice in writing of his intention so to do, proceed to remedy such failure at the expense of such contractor, and such contractor shall pay to the superintendent all expenses incurred in so doing; and the cost of such proceeding shall be a first lien upon all of the property of the contractor.

§ 615. No one shall be allowed to place or maintain poles or wires in, upon, or across any public street except such persons as are authorized by law so to do. Any person violating this section shall be guilty of a misdemeanor, and be fined twenty-five dollars for each pole or wire so placed in violation hereof. The superintendent may at any time cause such poles or wires to be removed at the expense of the person placing them in such position; but the penalty provided by this section shall not be inflicted until after the expiration of three months from the date hereof.

SUPERVISION.

§ 616. The entire plant, operations, books, and accounts of any contractor shall at all times be subject to the inspection of the superintendent or such person as may be appointed by him for such purpose.

§ 617. Each contractor shall within one month after the expiration of each year file with the superintendent:

First. A detailed statement showing the name of each consumer of light or power furnished by such contractor; the number and character of lights or horsepower furnished to each consumer, and the amount paid by each consumer during each year;

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Second. A detailed statement showing the objects added to the plant or stock of the contractor and the true net price, after deduction of all discounts and rebates of each such objects; and

Third. A further detailed statement showing the item of running expense of such contractor and the amount of each such item during the preceding year, and shall at the same time pay to the said superintendent such per centum as may have been bid and agreed upon in the contract above provided for.

EXEMPTIONS FROM EXCLUSIVE FRANCHISE.

§ 618. Nothing in this chapter contained shall be construed to prohibit any person or corporation from erecting electric apparatus and producing electricity for either light or power for his or its own use upon the premises where produced. But any such plant so erected shall be subject to all of the regulations hereinbefore referred to; and shall be subject to the inspection and regulation of the superintendent or such person as may be appointed by him for that purpose.

Nor shall anything herein contained be construed to prohibit the Hawaiian Tramways Company, Limited, under the franchise already granted to it, from erecting a plant, poles, and wires, subject to the inspection and regulations hereinbefore provided for, for the purpose of furnishing power for the propulsion of its cars; or for making a contract with any one or more of the contractors to furnish it with such power for use on any of its tracks, whether the same is within the district of such contractor or not.

Nor shall anything in this chapter contained be construed to prohibit the Government from furnishing to any part of Honolulu electricity for light or power, produced by the power now obtained from the present water supply of the city, up to the capacity of the electric dynamos now owned by the Government.

RATES.

§ 619. The rates to be charged by the contractor shall not exceed the following rates for each 16-candlepower light, viz:

For all-night use, or for use by saloons or billiard rooms, per month, $1.25. For stores, per month, $1.00. For dwelling houses, for first five lamps, per month per lamp, $0.90. For all over five lamps, per month per lamp, $0.60. For hotels, hospitals, churches, halls, and other places of a similar character, where lights are only occasionally used, shall be given special rates, not to exceed an equitable charge, depending upon the circumstances of each case.

The charge to be made for light and power furnished by the government shall not be less than the rate prescribed to be charged by any contractor.

The superintendent of public works is hereby prohibited from alienating in any manner the ownership and control of the government over the government water supply, or power produced therefrom, or the government electric light plant.

CONTRACTOR'S PLANTS MAY BE TAKEN BY THE GOVERNMENT.

§ 620. At the termination of the franchise granted hereunder, the superintendent may take over, on behalf of the government, all of the plant of the contractor, upon payment to him of the value thereof. The

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value so to be paid shall be the actual cost price of all of the stock and plant of such contractor actually in use in carrying out the purpose of such franchise at the time the same is so taken over; the actual cost of the labor used in placing the same in position ready for work, less the deduction of a reasonable percentage for wear and tear and deterioration; and no allowance or payment shall be made for good will or value of the business. Provided, however, That such value shall not be higher than the same plant could, at such date, be duplicated for.

The percentage so to be deducted shall be used as may be agreed upon between the parties; or, if they are unable to agree thereon, each party shall appoint a disinterested appraiser, and the two so chosen shall choose a third, and the appraisement of such three persons so chosen shall be binding upon both parties as to the amount of percentage to be deducted.

§ 621. In case the Hawaiian Electric Company, Limited, shall not be the purchaser of such franchise, the purchaser thereof shall, if so requested by said company within thirty days of such purchase, take over from such company all of the plant now in use by such company at its fair market value, taking into consideration a fair discount for wear and deterioration. If the purchaser and said company are unable to agree upon the price, it shall be determined in the manner set forth in section 620. Provided, however, That such value shall not be higher than the same plant could at such date be duplicated for; and provided further, That said company shall have ten days after the rendition of the appraisers within which to decide whether to accept such award or not.

If such company shall not accept such award within such ten days, the contractor shall be thereupon absolved from any obligation to purchase such plant.

NOTE TO CHAPTER 45.

§§ 606-621 are S. L., 1892, ch. 107.

CHAPTER 46.

PRODUCTION OF ELECTRICITY, HILO.

§ 622. The superintendent of public works is hereby authorized to grant to the Hilo Electric Light Company a franchise for the term of fifty years from the date thereof, granting to the said company the right for said term to manufacture and supply electric light and electric power, in the town of Hilo, on the Island of Hawaii.

§ 623. The said company, under the supervision of the superintendent of public works, shall have the right to place poles and hang wires for the transmission of electricity in the streets and public places; on the wharves and elsewhere, as it may be required from time to time. It may take its water pipes under the highways and public roads, and across lands, where such is necessary to the exercise of its franchise, but such use shall not be made across private property unless, upon failure to agree with the owner of such property, regular proceedings shall be had for condemnation.

§ 624. Such franchise shall not be granted until the company shall have assured the superintendent by guarantees satisfactory to him that it is, and will be at all times during the existence of such franchise, able to supply promptly and efficiently such electric light and electric power in the town of Hilo as may from time to time be required, and

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that it shall, within one year from the date of the grant, be prepared to manufacture and furnish such electric light and power at any point within two thousand feet of the court-house in Hilo: Provided, however, That it shall not be required to build and maintain any line for the transmission of such electric light and power unless the number of lights or amount of power agreed to be taken for not less than one year shall be sufficient to warrant the construction of such line.

§ 625. The use by the company of public streets, places, or other public property shall be subject to such reasonable rules and regulations, to be provided by the superintendent of public works, as shall at all times provide for guarding the rights of the general public in the use of streets and public places.

§ 626. The superintendent is hereby authorized and empowered to enter into a contract with said company, upon such terms as he shall deem proper, for lighting the streets, public places, and public buildings in the said town of Hilo.

NOTE TO CHAPTER 46.

§§ 622-626 are S. L., 1895, act 5.

[*CHAPTER 47.*]

[§§ 627-635.]

[*CHAPTER 48.*]

[§§ 634-643.]

CHAPTER 49.

INSANE ASYLUM.

§ 644. There shall be erected in Honolulu, at such place as the board of health shall direct, a suitable building for the reception of all insane persons, to be styled an insane hospital.

§ 645. The board of health shall have the power to make such arrangement for management of said hospital as he shall deem requisite and necessary.

§ 646. The judges of the circuit and district courts shall have the power to commit any person to the said hospital on a satisfactory complaint being made before them that such person is insane, and that the public safety requires his restraint until he becomes of sane mind, or is ordered to be discharged as hereinafter provided.

§ 647. The judges of the circuit courts shall have the power to discharge any person confined in said hospital upon application to them, if upon examination they shall be satisfied that said person is of sound mind.

§ 648. Any person indicted for any crime who shall be acquitted by reason of insanity or mental derangement, the court before whom such trial shall be heard shall have the power to commit such person to the insane hospital, there to remain until restored to his right mind or discharged, as provided in section 647.

§649. The property of all persons committed to the said hospital shall be liable for the expenses attending their confinement; and the attorney-general shall institute suits for the recovery of the same when requested to do so by the board of health.

§650. Whenever the physician of the hospital shall certify to the board of health that any person committed to the hospital is either restored to a sound mind or that he has recovered so far that he has ceased to be dangerous to the public safety, the board aforesaid shall

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have power to discharge such person, provided that his friends stand ready to receive him.

§651. The physician of the hospital shall keep a register of the name, age, and sex of each person committed, the date of his admission and discharge from the hospital.

§652. The treasurer is hereby authorized to pay to the board of health a sum not to exceed seven thousand dollars to carry out the above-mentioned object.

§653. The board of health shall have the management and control of the insane asylum; and all the powers and duties heretofore by law vested in the minister of the interior in relation to the care of insane persons and the discharge of those who have been insane but have been restored to sound mind shall be vested in and discharged by the board of health.

NOTE TO CHAPTER 49.

§§644–652 are S. L., 1862, C. L., p. 507, as amended (§650) by S. L., 1870, ch. 31. §653 is P. G. act 78.

The following laws extending aid to eleemosynary institutions and other enterprises have been omitted in this compilation:

Queen's Hospital (land). S. L., 1860. C. L., p. 500.

Queen's Hospital (passenger tax). S. L., 1882, ch. 20. C. L., p. 666, and S. L., 1892, ch. 40. See Hospital v. Collector, 9 Haw., 579.

Catholic Mission (land). S. L., 1886, ch. 67.

Lunalilo Home (land). S. L., 1888, ch. 47.

Indigent Foreigners (land). S. L., 1888, ch. 71. See Re Cabinet, 8 Haw., 568.

Sailors' Home (land). S. L., 1892, ch. 31.

Honolulu Library (light, water, etc.). S. L., 1892, ch. 69.

Laysan and Lisianski Is. (lease). P. G. act 22.

Chinese Hospital (land). S. L., 1896. act 30.

PARKS.

Kapiolani Park. S. L., 1896, act 53. S. L., 1896, act 74.

Hilo Parks. S. L., 1896, act 63.

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TITLE V.

DEPARTMENT OF FINANCE.

CHAPTER 50.

THE MINISTER OF FINANCE.

§ 654. There shall be an executive department, styled the department of the treasury, which shall be presided over by an officer called the treasurer, who shall reside and keep an office at the seat of government.

§ 655. It shall be the duty of the treasurer to have a general supervision over the financial affairs of the Territory, and to faithfully and impartially execute the duties assigned by law to his department. He is charged with the enforcement of all revenue laws, the collection of taxes, the safe-keeping and disbursement of the public moneys, and with all such other matters as may by law be placed in his charge.

§ 656. It shall be his duty to make a biennial report to the legislature of the transactions and business of his department, showing the revenue and expenditure for the two preceding years, and giving a full and detailed estimate of the revenue and expenditure for the two succeeding years.

§ 657. He shall keep, or cause to be kept, in appropriate books, a clear, distinct, and full record of all the transactions and business of his department.

§ 658. He shall, from time to time, instruct the collectors of taxes, assessors, and other officers of his department in relation to their duties and business.

§ 659. The treasurer shall be personally responsible for the safe-keeping of all moneys paid into the public treasury, and for the proper disbursement and appropriation thereof, pursuant to the laws: Provided, however, That in case of the larceny or embezzlement of any such moneys by any officer of his department, or other persons, said minister shall be allowed to give that fact, and that he had no collusive knowledge thereof, in evidence, and the establishment of such facts shall discharge him from personal responsibility.

§ 660. Said treasurer shall appoint, on his own faith and responsibility, a registrar of public accounts, removable at his pleasure. Such registrar shall, before entering upon his duties, give a bond, with good and sufficient sureties, for the benefit of the government to the treasurer and his successors in office in the penal sum of not less than five thousand nor more than ten thousand dollars, conditioned that he will well and faithfully keep the accounts of the treasury; that he will not embezzle, or in any other way wrongfully convert to his own use, or to the use of another, any of the public moneys, and that in all respects he will faithfully discharge the duties of his office.

§ 661. Said treasurer shall have power to administer all necessary oaths connected with the duties of his department.

§ 662. Said treasurer shall have power to certify, under the seal of his department, copies of vouchers and other documents deposited in his

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office, and such copies so certified shall be as valid evidence in any court as the originals.

§ 663. The head of each department shall be responsible for the correctness of all drafts or orders drawn by him upon the treasury, in pursuance of appropriations, and for the proper disbursements of all appropriations for his department. The same rule shall apply to the superintendent of public instruction. The responsibility of the treasurer in such cases shall be limited to the payment of the aggregate amount of appropriations made by the legislature. All moneys received by any department or officer of the government on public account shall be promptly paid into the treasury, and there held subject to disbursement in accordance with law: Provided, however, That the provisions of this section shall not apply to the school tax, which shall be collected by the tax collectors of the several districts and deposited with the school treasurers of the several districts for the support of the government schools.

§ 664. No draft or order drawn by any district magistrate, assessor, or tax collector upon the treasury for salary or compensation shall be regarded as valid, or paid by the treasurer, unless the same be countersigned by the chief sheriff or sheriff of the island on which said district magistrate, assessor, or tax collector may reside. Such counter signature shall be evidence of the genuineness of any such draft or order, and the chief sheriff or sheriff countersigning the same shall be responsible therefor. In order to secure uniformity and a proper security to the treasury in the payment of salaries and compensation to persons entitled to receive the same, the treasurer shall have power to prescribe the form of all accounts, drafts, or orders relating to such salaries or compensation.

NOTE TO CHAPTER 50.

§§ 654–664 are C. L., §§ 468–478. § 663, see Chapter 53.

[*CHAPTER 51.*]

[§§ 665–675.]

CHAPTER 52.

TERM TREASURY NOTES.

§ 676. The treasurer, upon the approval of the governor, may issue, at par, upon public tender, to any person or corporation, term treasury notes in the name of the Hawaiian treasury.

§ 677. The said treasury notes shall be issued in sums of one thousand dollars or multiple thereof, and shall not exceed at any one time one hundred and fifty thousand dollars.

§ 678. The rate of interest shall not exceed seven per cent per annum, free of tax, and be payable at the due date of the note.

§ 679. The tenders for the said treasury notes shall state the rate of interest for gold tenders or for silver tenders, and whether to be repaid in gold or silver coin.

§ 680. The term for which any treasury note shall be issued shall not exceed seven months.

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§ 681. The form of said treasury notes shall be as follows:

No. —.

HAWAIIAN TREASURY NOTE.

$———.

Honolulu, ————, 189—.

Received from ——— the sum of ——— dollars payable in ——— coin on presentation of this note properly endorsed.

This loan is made for ——— months and ——— days, and will bear interest until fully paid from ———, 189—, at the rate of —— per cent per annum.

———, ———,
Registrar of Public Accounts.

———, ———,
Treasurer.

NOTE TO CHAPTER 52.

§§ 676–681 are P. G., act 79.

[*CHAPTER 53.*]

[§§ 682–714.]

[*CHAPTER 54.*]

[§§ 715–732.]

CHAPTER 55.

PUBLIC LOAN.

WHEREAS to meet the requirements of the Territory for the purpose of public works and enterprises, immigration, the promotion of industrial developments and of education, it will be necessary to effect loans from time to time by means of the issue of bonds;

AND WHEREAS it is advisable that all loans to be effected hereafter, otherwise than for the purpose of converting any loans existing and outstanding, should be effected, and that the bonds to be issued therefor should be issued, and the authority to effect such loans and issue bonds in respect thereof should be given in a uniform manner;

NOW, THEREFORE, for the carrying out of the purposes above mentioned, *Be it enacted, etc.:*

§ 733. The treasurer, with the approval of the governor, is hereby authorized to issue from time to time bonds of the Territory of Hawaii, either payable to bearer or the order of the treasurer, with interest coupons attached thereto, to an amount not exceeding in any one year one per centum upon the assessed value of the taxable property of the Territory as shown by the last general assessment for taxation, and not exceeding in the aggregate two million dollars, the principal and interest to be paid in gold coin of the United States of America, or its equivalent at its present standard of weight and fineness, in the manner, upon the terms, and for the purposes in this chapter stated.

§ 734. No such bonds shall be issued except in pursuance of any act of the legislature authorizing such issue.

§ 735. All bonds, when the issue thereof is authorized, may be issued from time to time as the treasurer, with the approval of the governor, may deem expedient, and shall bear interest, payable semiannually, at such rate, not exceeding five per cent per annum, and be redeemable at such date, not less than five nor more than twenty years from the date of issue thereof, as the treasurer for the time being, with the approval of the governor, may determine.

§ 736. The principal and interest of all such bonds shall be exempt

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from any and all taxes whatsoever, and the payment of the principal and interest thereof shall constitute a charge upon the consolidated revenue of the Territory, other than that from the public domain.

§ 737. The treasurer, with the approval of the governor, may determine the denominations of such bonds to be issued under the authority of this chapter, and the place in which the principal and interest of such bonds, or any of them, shall be payable, and the period and method of their redemption.

§ 738. The treasurer may make such arrangement as he may deem advisable for enabling the holders of any such bonds to register the same either in Honolulu, Hawaiian Islands, or in London, England, or in Paris, France, or in the city of New York, in the State of New York, United States of America, or in the city of San Francisco, in the State of California, United States of America, or in the city of Boston, in the State of Massachusetts, United States of America, and to remove such bonds from the register of one city to the register of any of the other cities of registration, and also to transfer any of such bonds and to receive the interest payable thereon and repayment of the principal thereof in any foreign country.

§ 739. The said bonds, or the proceeds thereof, shall be exclusively devoted to the purposes for which the same are issued, as expressed in the act of the legislature under which the loan and the issue of the bonds are authorized.

§ 740. The treasurer, with the approval of the governor, may, from time to time, make such arrangements as may be necessary or proper for the sale or issue or guaranteeing of the whole or any part of the bonds authorized to be issued by this chapter.

Such arrangements may provide for the direct issue and sale of such bonds by the government itself or through the medium of some person or persons, syndicate, bank, or company.

§ 741. The said treasurer may also, with the approval aforesaid, grant a discount on any or all bonds issued under the authority of this chapter.

§ 742. The said treasurer may also, with the approval aforesaid, pay a commission to any person or persons, syndicate, bank, or company for the sale or issue, or guaranteeing of the whole or any part of the bonds issued under this chapter.

Provided, however, that no commission shall be allowed upon any issue, sale, or guarantee of bonds of less than $100,000 in amount.

§ 743. All bonds issued under the provisions of this chapter shall be signed by the treasurer and by the registrar of public accounts, and be sealed with the seal of the treasury. Interest coupons attached to such bonds shall bear the signature or a printed, engraved, or lithographed facsimile of the signature of the treasurer.

§ 744. The power to issue bonds conferred by any act passed in conformity with this chapter shall not lapse or become void as the result of first issue, but may be exercised from time to time until the limit of the amount authorized has been reached.

§ 745. The discount which the treasurer is authorized by section 741 to grant on all bonds issued under the authority of this chapter shall not exceed three per cent.

§ 746. The commission which the treasurer is authorized to allow under section 742 shall not exceed (in addition to the discount before named) one per cent on the amount of such bonds so sold, issued, or guaranteed.

NOTE TO CHAPTER 55.

§§ 733–744 are S. L., 1896, act 71. §§ 745–746 are S. L., 1896, act 72.

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[*CHAPTER 56.*]

[§§747–765.]

[*CHAPTER 57.*]

[§§766–771.]

[*CHAPTER 58.*]

[§§772–883.]

CHAPTER 59.

INTERNAL TAXES.

TAXATION DIVISIONS.

§ 804. For the purposes of taxation, the Territory shall be and hereby is divided into four divisions, viz:

1. The island of Oahu and all other islands of the group not herein enumerated, to be called the first division.
2. The islands of Maui, Molokai, Lanai, and Kahoolawe to be called the second division.
3. The island of Hawaii to be called the third division.
4. The islands of Kauai and Niihau to be called the fourth division.

ASSESSMENT AND OTHER DATES.

§ 805. January 1. All property, except growing rice, shall be assessed as of the first day of January in each year.

January 1. All personal and dog taxes shall be assessed as of, and be due and collectable on and after the first day of January in each year.

January 1–30. All taxpayers shall make returns of their property and the value thereof between the first and thirtieth days of January in each year.

March 31. All personal and dog taxes which shall remain unpaid on March thirty-first of each year shall thereby and thereupon become delinquent, and ten per cent of the amount thereof shall be added thereto and become due as a part thereof.

May 1. Growing rice shall be assessed as of the first day of May in each year.

July 1–15. The assessment books shall be made up on or before July first, and shall be open to inspection from the first to the fifteenth of July of each year, notice of which shall be given.

July 1–20. In order to be entitled to appeal, any persons desirous and otherwise entitled to appeal from any assessment, shall file a notice of appeal at any time from the first to the twentieth of July of the year in which the assessment is made.

August 1–20. The tax-appeal court shall sit for the hearing of tax appeals between the first and twentieth of August of each year.

September 1. Tax lists shall be made up by assessors on September first, and all property taxes shall be payable on and after September first of each year, but may be received by the assessors at any earlier date after assessment.

September 1—November 15. From September 1 to November 15 of each year assessors shall attend at an advertised place for collection

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of taxes, the advertisement to contain notice that taxes will be delinquent on November 15.

November 15. All property taxes which shall remain unpaid on November fifteenth of each year shall thereby and thereupon become delinquent, and ten per cent of the amount thereof shall be added thereto and become due as a part thereof.

December 1. On the first day of December of each year the assessor shall prepare and advertise in some newspaper, or post in not less than three public places in each district, the names of all delinquent taxpayers owning property in such district, and the amount due by each.

December 1–30. During December of each year each assessor shall advertise for tax returns to be made during the following January. The board of equalization shall also meet during December.

POLL TAX.

§ 806. An annual tax of one dollar shall be paid by every male inhabitant of this Territory between the ages of twenty and sixty years, unless exempted by law.

SCHOOL TAX.

§ 807. An annual tax of two dollars for the support of public schools shall be paid by every male inhabitant of this Territory between the ages of twenty and sixty years, unless exempted by law.

[§ 808.]

ROAD TAX.

§ 809. An annual road tax of two dollars shall be paid by every male inhabitant of this Territory between the ages of twenty and sixty years, unless exempted by law.

PROVISIONS FOR WORKING OUT CERTAIN TAXES.

§ 810. The taxes due from poll taxes, school taxes and road tax under this chapter may be worked out by the person taxed (in the discretion of the tax assessor) on the public roads of the district where he resides, under the direction of the road board of such district, but in the district of Kona, island of Oahu, under the direction of the road supervisor, at the rate of fifty cents a day for at least ten hours' work. The certificate of the chairman of such road board or of the road supervisor for the district of Kona, island of Oahu, that such taxes have been worked out shall exempt such person from arrest for nonpayment of taxes.

CART AND DRAY TAX.

§ 811. All carts, drays, wagons, brakes, or other vehicles used for the conveyance of freight or merchandise, shall be subject to an annual tax of two dollars each.

CARRIAGE TAX.

§ 812. All carriages, wagons, wagonettes, hearses, and omnibuses, drawn by one or more horses or mules, and used for the conveyance of

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persons, shall be subject to an annual tax of five dollars each, to be paid by the owners thereof.

DISPOSITION OF ROAD TAX.

§ 813. The taxes received from road, cart, dray, and carriage taxes shall constitute the road taxes, and shall be expended in the making, maintaining, and repairing of the public roads and highways in the several road districts wherein the same are collected, and shall not be expended in any other district.

All road taxes collected hereunder shall be paid by the assessor into the public treasury; and the amount so paid in from each road district shall be a special deposit in the treasury to the credit of such road district, to be paid out only upon the order of the chairman of the road board of such district, or such other officer as may be by law authorized to draw the same. The treasurer shall under no circumstances allow these special deposits, or any part thereof, to be used for any other purpose than to pay drafts which may be drawn thereon by the chairman of the respective road boards, unless otherwise directed by law.

DOG TAX.

§ 814. All male animals of the dog kind shall be subject to an annual tax of one dollar each, and all female animals of the dog kind shall be subject to an annual tax of three dollars each, to be paid by the owner thereof.

Any person having the custody or possession of, or who shall harbor any dog, male or female, shall be deemed the owner thereof under the provisions of this chapter.

§ 815. Upon the receipt of said tax the assessor shall number and register the same to the owner, and shall also furnish the owner with a metallic tag for each dog with number and year marked thereon, charging therefor the sum of ten cents, which tag the owner shall attach to the neck of the dog by a collar.

§ 816. It shall be unlawful for any dog that is liable to taxation under the provisions of this chapter to run at large without a collar and tag as herein provided, and the chief sheriff and sheriffs, their several deputies, and every constable or member of the police force of the several divisions or districts of this Territory are hereby directed to seize every dog not wearing a tag, and to confine it in a suitable inclosure for two days, during which time it shall be subject to redemption by its owner by payment of the tax due, if any, and a penalty of fifty cents. All dogs not so redeemed within two days shall be sold by the chief sheriff or sheriff for the amount of the tax and penalty due, or as much more as can be obtained therefor, and if not so sold shall be immediately killed. Of the money so received the amount of the tax shall be paid into the treasury as a government realization, and the penalty of fifty cents shall be retained by the chief sheriff or sheriffs or their deputies to defray the expenses of collecting, feeding, and keeping such dogs.

Any person who shall use a tag not furnished in accordance with the provisions of this chapter, or who shall use the same tag during two consecutive years, or who shall counterfeit any dog tag, or who shall fraudulently remove a tag from the neck of any dog, shall be guilty of a misdemeanor.

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REAL AND PERSONAL PROPERTY TAX.

§ 817. Except as herein provided, all real property and all personal property within the Territory shall be subject to an annual tax of one per cent upon the full cash value of the same.

DEFINITION OF REAL PROPERTY.

§ 818. The term "Real Property" for the purposes of this chapter shall mean and include all lands and town lots and house lots, with the buildings, structures, fences, wharves, improvements, and other things erected on or affixed to the same.

DEFINITION OF PERSONAL PROPERTY.

§ 819. The term "Personal Property" for the purposes of this chapter shall mean and include all household furniture and effects, jewelry, watches, goods, chattels, wares, and merchandise, machinery, Hawaiian ships or vessels, whether at home or aboard, all moneys in hand, leasehold and chattel interest in land and real property, franchises, patents, contracts, growing crops, public stocks and bonds not exempted by law from taxation, and all animals not herein specifically taxed.

BASIS OF VALUE FOR TAXATION.

§ 820. All real and personal property and the interest of any person in any real or personal property shall be assessed separately as to each item thereof for its full cash value.

Provided, however, That in all cases where real and personal property, or several classes or kinds or parcels of real or personal property respectively, are combined and made the basis of an enterprise for profit, the combined property forming such basis of such enterprise for profit shall be assessed as a whole on its fair and reasonable aggregate value.

In estimating the aggregate value of each such enterprise for profit there shall be taken into consideration the net profits made by the same, also the gross receipts and actual running expenses; and where it is a company being a corporation whose stock is quoted in the market, the market price thereof, as well as all other facts and considerations which reasonably and fairly bear upon such valuation.

In ascertaining the aggregate value of the property constituting an enterprise for profit for the purpose indicated by this section, there shall be excluded therefrom the value of shares in other Hawaiian corporations held or owned by such enterprise, and all property upon which specific taxes are levied.

And further provided, that when any real estate or house is leased or rented, the sum of eight years rental thereof shall be the assessment value of such real estate or house, unless such valuation shall be manifestly unfair or unjust.

INTEREST OF EACH PERSON ASSESSED SEPARATELY.

§ 821. The interest of every person in any property shall be separately assessed (except as herein provided in respect to shareholders in or members of companies), and every person shall be liable to taxation in respect of the full value of his interest in such property.

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The interest of any person as tenant, lessee, or occupier of any real property that is exempt from taxation, or the owner of which is exempt from taxation, shall be assessed to such tenant, lessee, or occupier in respect of the value of his interest therein.

TAX A LIEN ON PROPERTY ASSESSED.

§ 822. Every tax due upon property shall be a lien upon the property assessed; and every tax due upon improvements upon real property assessed to others than the owner of the real property shall be a lien upon the improvements; which several liens shall attach as of September first in each assessment year, and shall continue for two years.

FIRE AND MARINE INSURANCE TAX.

§ 823. All foreign marine and fire insurance companies carrying on business in the Territory shall pay for and in respect of every one hundred dollars received by such companies or their agents respectively, for gross premiums, during the year preceding the assessment of taxes, the sum of one dollar, and such companies shall not be caused to pay any other taxes or duties under this chapter.

INSURANCE AGENTS' RETURN.

§ 824. Every agent of such insurance company shall, within the time prescribed by law for taxpayers to make return or statements, deliver to the assessor of the division in which said company shall have its principal office, agency, or place of business in the Territory, a return showing the amount of gross premiums received by him or his company in or from the Territory, or any business transacted therein during the year preceding the first day of January of the year of such assessment of taxes. Any agent of any such company failing to make a return as aforesaid shall be guilty of a misdemeanor.

UNKNOWN OWNER—NONRESIDENT.

§ 825. The taxable property of parties or persons unknown and of nonresidents for whom no return is made shall be assessed by the assessor to "Unknown Owner" or "Nonresident," and may be levied upon for all unpaid taxes.

DUTIES AND LIABILITIES OF AGENTS, TRUSTEES, ETC.

§ 826. Every agent for any person temporarily or permanently absent from the Territory, and every trustee, treasurer, executor, administrator, or guardian, shall make returns for taxation, and shall be assessed separately in respect of each property or trust which he represents, and shall be chargeable with the tax payable in respect thereof in the same manner as if such property were his own.

Each such assessment shall be kept separate and apart from his individual assessment.

§ 827. Every such agent, and every trustee, treasurer, executor, administrator, or guardian shall be answerable for the performance of all such acts, matters, or things as are required to be done by this chapter, in respect to the assessment of the property he represents and the payment of taxes thereon, and shall be under and subject to the like pen-

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alty or liability for any neglect, refusal, or default as though he owned such property. He may recover from any person in whose behalf he is compelled to pay any tax the amount so paid by him, or may retain out of the money which shall come to him in his representative character so much, from time to time, as shall be sufficient to pay such tax, and shall be and hereby is indemnified for all payments which he shall make in pursuance of this chapter.

DEFINITION OF COMPANY.

§ 828. The word "Company" when used in this chapter shall mean any corporation incorporated under the laws of the Territory and foreign corporations carrying on business in the Territory or any copartnership consisting of two or more persons carrying on business together.

COMPANY RETURNS—BY WHOM MADE.

§ 829. The returns, statements, or answers herein required to be made shall, when made by a company being a corporation, be made by the president, treasurer, secretary, or manager; or if a copartnership, by some member thereof.

CORPORATION AND PARTNERSHIP SHARES NOT TAXABLE TO SHAREHOLDERS.

§ 830. The property of a company shall be assessed to the company under its corporate or firm name, and the individual stockholders or members thereof shall not be liable to be assessed in respect of their individual shares or interest in such companies.

TAXES ON MORTGAGED PROPERTY.

§ 831. The mortgagor of any property shall, in respect of such property, be liable to taxation only on the difference between the whole value of the property mortgaged and the amount of money owing on the mortgage of the property:

Provided always, That the mortgagor shall append to the statement of the property belonging to him and required by this chapter a statement of the date of the mortgage and of the amount secured thereby, and the names of the respective mortgagees.

In respect of the amount of money secured by such mortgage he shall pay the tax thereon, which payment shall be deemed to be a payment made by the mortgagor to the mortgagee on account of interest, or of principal and interest, as the case may be, and all moneys so paid by a mortgagor shall be allowed for in the account between the mortgagor and mortgagee.

TEN PER CENT PENALTY FOR DELINQUENCY.

§ 832. If any property taxes shall remain unpaid after the fifteenth day of November in any year, ten per cent of the amount of such taxes shall be added by the assessor to the amount of such taxes at said date, and shall become and be collected as part of such taxes.

§ 833. If any personal taxes or dog tax shall remain unpaid after the 31st day of March, ten per cent of such taxes shall be added to the amount of such taxes at said date by the assessor, and shall be collected as part of such taxes.

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PERSONS EXEMPT FROM TAXES.

§ 834. The following persons shall be exempt from personal taxes: All clergymen of any Christian denomination regularly engaged in their vocation, regular members of the Hilo fire department, and all officers and soldiers of the national guard and sharpshooters:

Provided, however, That in order to secure such exemption the commanding officer of such soldiers shall, on or before the first day of January in each year, deliver under oath to the assessor of the division a statement showing the names of such soldiers who are entitled to exemption.

§ 835. The several assessors may, in their discretion, exempt from the payment of personal taxes, or any part thereof, any infirm and indigent person to whom the payment of such taxes would appear to be a great hardship because of their infirmity and poverty.

PROPERTY EXEMPT FROM TAXES.

§ 836. The following property shall be exempt from taxation:

Real and personal property belonging to the Government; to the department of public instruction; to incorporated or private schools and in the actual use of such schools; to the Queen's Hospital; to religious societies and in the actual use of such societies, the land of such societies exempt from taxation being limited to church sites and burying grounds, such sites and burying grounds not to exceed five acres each in extent, and the Kapiolani Maternity Home.

THREE HUNDRED DOLLAR EXEMPTION.

§ 837. Provided, however, That the tax of one per cent herein imposed upon property shall be collected only upon property in excess of the value of three hundred dollars, be the same real or personal.

Such exemption shall be allowed in but one taxation district of the Territory, and that taxation district shall be the one in which the property owner resides:

And further provided, That no exemption shall be allowed from the property of corporations, companies, estates of deceased persons, or non-residents:

And further provided, That a tenant, lessee, or occupier of any real property that is exempt from taxation shall not by reason thereof be exempt from taxation, but shall be assessed and shall be subject to taxation in respect to the value of his interest in any such real property.

APPOINTMENT AND REMOVAL OF ASSESSORS.

§ 838. The treasurer, with the approval of the governor, shall, for each taxation division of the Territory, appoint an assessor and collector of taxes, who shall be called the "assessor;" and in case of death or removal of any assessor, or a vacancy in that office, a new appointment shall be made in the same manner.

§ 839. Any assessor may be removed by the said treasurer, with the consent of the governor, whenever in his opinion such officer shall be incompetent or corrupt, or shall have failed properly to perform the duties of his office.

APPOINTMENT AND REMOVAL OF DEPUTY ASSESSORS.

§ 840. Each assessor shall appoint, and at his pleasure remove, as many deputies as in his opinion, with the concurrence of the treasurer,

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may be required to properly perform the duties of assessing and collecting the taxes.

ASSESSOR'S BOND AND OATH.

§ 841. Each assessor shall, within fifteen days after his appointment and before entering upon the duties of his office, give to the treasurer a good and sufficient bond, conditioned for the faithful and impartial discharge of his duties according to law, in a sum not less than ten thousand dollars, with two or more sufficient sureties, who shall be residents within the Territory, and who shall each own within the Territory unencumbered real estate of the value of not less than ten thousand dollars; and each assessor shall take and subscribe an oath before any person authorized to administer oaths that he will faithfully, honestly, and impartially perform and discharge the duties of his office to the best of his ability, which oath shall be filed with the treasurer.

No assessor shall enter upon his duties until his bond and oath of office shall have been filed with and accepted by the treasurer.

DEPUTIES' BOND AND OATH.

§ 842. Each assessor shall exact from each of his deputies a bond with two or more sufficient sureties, approved by the assessor, in the sum of not less than two thousand dollars conditioned for the faithful performance of his duties. Such sureties shall be resident within the Territory, and shall each own unencumbered real estate of the assessed value of not less than two thousand dollars.

Each of such deputies shall take and subscribe an oath before any person authorized to administer oaths, that he will faithfully, honestly, and impartially perform the duties of his office to the best of his ability.

It shall be the duty of the treasurer and the several assessors to, from time to time, ascertain and assure themselves of the sufficiency of the sureties on any of the bonds hereinbefore required; and he or they or either of them shall require new sureties at any time when the sureties on such bond shall, in their opinion, become insufficient.

No deputy assessor shall enter upon his duties until his bond and oath of office shall have been filed with and accepted by the assessor appointing him.

POWERS AND DUTIES OF DEPUTY ASSESSORS.

§ 843. Subject to the supervision and control of the assessor of his division, every deputy shall, within and for the district for which he is appointed, have all the powers and authority, and may do and perform all the duties of the assessor, except the appointment of a deputy or deputies.

He shall also be subject to the same obligations and penalties to which the assessor is subject.

RIGHTS, POWERS, AND DUTIES OF ASSESSORS.

§ 844. Each assessor shall be responsible for the acts of his deputy or deputies; for the correct and full assessment of the taxes within his division; for the collecting and accounting for the same, and the payment thereof into the treasury.

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LOCATION OF OFFICES.

§ 845. The several assessors shall keep offices at such places in their respective divisions as the treasurer shall direct, for the convenience of the public business, of which public notice shall be given.

§ 846. The successor of any assessor or deputy assessor shall be invested with the same powers and be subject to the same duties and liabilities as his predecessor, and shall collect all taxes then unpaid, and shall carry on any proceedings commenced by his predecessor.

Provided, however, That the liability to collect, account for, and pay over taxes shall only extend to the taxes uncollected at the time of entering on his duties.

§ 847. The executors, administrators, or personal representatives of a deceased assessor, and all other persons into whose hands any tax list, papers, and documents, books, or taxes may come, shall deliver the same to the treasurer.

COMPENSATION OF ASSESSORS AND DEPUTIES.

§ 848. Each assessor shall receive such compensation as the legislature shall, from time to time, appropriate. Each deputy shall receive as full compensation for assessing and collecting, and all work done in connection therewith, such percentage of the taxes collected by him, including road and school taxes, not to exceed five per cent, as the assessor, with the approval of the treasurer may decide.

Provided, however, That the commissions so paid shall be a charge upon each tax separately.

TREASURER TO FURNISH BLANKS, ETC.

§ 849. The treasurer shall furnish to the assessors all necessary books, blanks, blank receipts, stationery, and dog tags.

TREASURER TO FURNISH MAPS AND RECORDS.

§ 850. For the purposes of assisting the assessors in arriving at a correct valuation of the property within their respective divisions, the treasurer is hereby directed to cause to be forwarded to each assessor at the end of each quarter an abstract of the conveyances and leases of real estate situate in his division which shall have been entered for record at the registry of conveyances during such quarter. He shall also, from time to time, cause to be prepared for the use of the several assessors detail maps, so far as the material is available, of the respective tax divisions, showing original titles and areas, and, so far as possible, all present titles. He shall also each year furnish each assessor with a certified copy of the annual corporation exhibits of all corporations owning property in his division, which are each year filed in the treasury.

ASSESSORS' MAPS AND RECORDS OPEN TO THE PUBLIC.

§ 851. It shall be the duty of each assessor to gather and tabulate, under appropriate heads and in proper books, all information necessary or proper for the ascertaining of values of property in their respective divisions. Such information and all maps and records made, obtained, or received by such assessor shall be public records, and in case of his death, removal, or resignation shall immediately pass to the care and

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custody of his successor; such information and all maps and records connected with the assessment and collection of taxes shall, during business hours, be open to the inspection of the public.

ASSESSORS' NOTICE OF TIME AND PLACE OF ASSESSMENT.

§ 852. It shall be the duty of the assessor of each division, or of his deputies, to give public notice during the month of December of each year, by written or printed advertisement or posters, to the taxpayers of each district in his division, fixing a time and place during the month of January following, of each year, at which such taxpayers shall render to such assessor, or his deputies, a statement, list, or return of all property, real or personal, belonging to them or of which they had possession or control on the first day of January of that year, and of all animals subject to taxation in their possession on that day, and of all persons in their employ on that day.

NOTICE OF ASSESSMENT OF UNRETURNED PROPERTY.

§ 853. Each assessor shall at any time add to his assessment or tax list any person or property theretofore omitted. Notice thereof shall be given to the owner, if known, within ten days after such addition; and any such notice addressed to him at the place in which he resides, and sent by mail, postage prepaid, shall be a sufficient notice.

NOTICE OF INCREASE OF ASSESSMENT TO NONRESIDENTS.

§ 854. In case any assessor shall raise the valuation of any property above the value stated in the assessment return herein provided for, or shall refuse to allow a claim for exemption, such assessor shall, on or before the first day of July in each year, send a written or printed notice, by depositing the same in the post office, postage prepaid, addressed to the last known place of residence of the person making the return or claiming the exemption, describing the property, the valuation of which has been so raised, and stating the proposed assessment thereof, or stating the exemption refused, as the case may be.

RIGHT OF EXAMINATION FOR PURPOSE OF TAXATION.

§ 855. For the purpose of properly assessing and listing property for taxation, the assessors shall each have the right and power—

To inspect and examine the records of all public officers without charge;

To enter, after making known his intention to the owner or occupant thereof, and examine, so far as is necessary to ascertain their value, all buildings, premises, or property whatsoever, except dwelling houses;

To examine under oath any person or persons whom he may suppose to have a knowledge of any property liable to taxation, or in whose hands money or property may be on deposit.

ASSESSORS AND DEPUTIES MAY ADMINISTER OATH.

§ 856. Each assessor and each deputy assessor shall have power to administer all oaths or affirmations required to be taken or administered under this chapter.

§ 857. Each assessor shall make a full, true, and complete assessment of all persons, companies, and property in his division, liable to taxa-

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tion in each district, and shall make an alphabetical list of all such persons and companies and the personal and property taxes assessed to each.

The personal property may be in gross and the real property in parcels and lots, with a description as far as practicable.

§ 858. In each year on or before the first day of September, each deputy assessor shall, after making such changes as shall be ordered by any court having jurisdiction so to do, make two copies of the assessment of the district, which shall be signed and sworn to by him. One of such copies shall be filed with the assessor of the division. Such list shall be the list in accordance with which taxes shall be collected. No changes in or additions to such assessment shall thereafter be made, except to add thereto property or taxes that may have been omitted therefrom.

The assessors of the second, third, and fourth divisions shall cause to be made and filed with the treasurer an abstract of the assessment book or list of each district in their respective divisions. This abstract shall clearly and distinctly set forth the footings of each page in the respective assessment books or lists as well as the totals of the whole assessment.

ASSESSORS' RESPONSIBILITIES.

§ 859. Each assessor shall collect all taxes in his division according to the assessment or tax list or books and supplemental lists or books herein provided for. He shall duly and accurately account to the treasurer for an honest, impartial, and proper assessment; for the collection and the amount of taxes according to the assessment and tax lists and supplemental lists, and shall be liable and responsible for the full amount of such taxes assessed, unless he shall under oath account for the noncollection of the same to the full satisfaction of the treasurer. He shall, from time to time, pay over to the treasurer all taxes collected, at such times as the treasurer shall direct.

§ 860. Each assessor or his deputy shall, between the first of September and the fifteenth of November of each year, for the convenience of taxpayers, attend at certain times or places in each district for the collection of taxes.

Public notice of the time or times, place or places of such attendance and the object thereof shall be given by advertisement in a weekly newspaper or newspapers, and by posting a notice of the same in at least three conspicuous places in each district. Such notice shall also contain a statement that all taxes not paid by November fifteenth will be delinquent and subject to a penalty of ten per cent additional, and that the delinquent tax list will be published on or after December first following.

Each taxpayer shall pay all property taxes due by him to the assessor or his deputy on or before the fifteenth day of November of the year in which they are assessed, and no other notification or demand than that herein provided for shall be required or necessary.

No notice need be published and no demand for payment shall be necessary concerning the payment of personal and dog taxes, except as hereinafter set forth.

PUBLICATION OF DELINQUENT TAX LIST.

§ 861. As soon after December first of each year as practicable, each assessor shall publish in the English language in one weekly newspaper, once each week for four successive weeks, or by public poster, the names

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of the delinquent taxpayers in his division and the amount of assessed taxes and penalties remaining delinquent by each such taxpayer.

The amount of taxes and penalties unpaid by each delinquent need only be stated in the aggregate.

Such list shall be certified to and signed by the assessor. Such list may be published either in the body of such paper or as a supplement.

Each assessor shall also cause a copy of such list to be posted in at least eight public and conspicuous places in each taxation district in his division.

The sum of fifty cents shall be added to each delinquent tax assessed and published, as costs, and shall be collected by the assessor or his deputy as a part thereof.

ENFORCEMENT OF DELINQUENT TAXES.

§ 862. If any tax be unpaid when due, the assessor may proceed to enforce the payment of the same, with all penalties, as follows:

1. By distress upon so much of the goods and chattels of the delinquent taxpayer as he may deem sufficient to satisfy the payment of the taxes due and interest thereon from the date when the same became due, and all penalties and costs and expenses of such distress.

2. By suit or action in assumpsit, in his own name, on behalf of the government of Hawaii, for the amount of taxes, penalties and costs and interest, in any district court, irrespective of the amount claimed. Execution may issue upon any judgment rendered in any such suit, which may be satisfied out of any real or personal property of the defendant in such suit, without other or further authority.

3. In case of personal taxes--that is to say, the poll tax, road tax, and school tax—by arrest of the person and sentence to imprisonment in the manner set forth in the succeeding section.

DELINQUENT PERSONAL TAXES.

§ 863. In case of personal taxes due and unpaid on the first day of January in each year, if no personal property can be found whereon to distrain, the assessor may cause the arrest and detention of the person of such taxpayer by and under a warrant issued and signed by the assessor or his deputy, in substance in the form following, viz:

Territory of Hawaii, island of ———, district of ———:

To ————, chief sheriff, or any constable or police officer of the district of ———, island of ——— of ———, in the island of ———, having failed and neglected to pay the sum of ——— dollars assessed upon him for personal taxes for the year ———, now due and unpaid, and no property being found belonging to the said ——— whereon to levy by distress;

Therefore, by virtue of the authority in me vested by law, I hereby order and command you to forthwith arrest and take said ——— before ———, district magistrate of ———, island of ———, to show cause, if any he has, why he, the said ———, should not be sentenced by said magistrate to be imprisoned at hard labor until he discharge the amount of said tax and costs as by law provided.

Hereof fail not, but of this order, with your proceedings thereon, make due return. Given under my hand this ——— day of ———, A. D. ———.

———— ————,

Assessor of ——— Division, Island of ———.

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ARREST, TRIAL, PENALTY FOR DELINQUENT TAXES.

§ 864. The officer receiving such warrant shall forthwith arrest the person therein named and take him before the district magistrate named in the warrant. Such magistrate shall, if no legal cause be shown for the nonpayment of said personal taxes, sentence such person to be imprisoned at hard labor until he discharge the amount of such taxes and the costs of arrest and hearing at the rate of fifty cents per day.

Costs shall be the usual costs of district courts.

The payment at any time of the amount of taxes and costs due shall release the person arrested.

PROCEDURE UPON DISTRESS FOR TAXES.

§ 865. Distress of goods and chattels for taxes shall be effected by seizure and sale of personal property of the delinquent taxpayer. The assessor or deputy assessor shall take possession of and keep such distrained property until the sale.

After taking possession, the assessor or deputy shall sell the property at public auction, after first giving five days' public notice of the time and place of such sale by advertisement in a newspaper, if one be published in the district, or by posting such notices in at least three public places in the district where such sale is to be held.

Such sale shall take place within ten days after seizure, except that one continuance may be had, not to exceed one week.

Sufficient property shall be sold to pay all taxes, penalties, costs, and charges.

On payment of the price bid for any property sold, the delivery thereof with a bill of sale from the assessor or his deputy shall vest the title of such property in the purchaser. No charge shall be made for such bill of sale. All surplus money received upon any such sale after the payment of the taxes, penalties, costs, and expenses shall be returned to the owner of the property sold, and until claimed shall be deposited in the assessor's office, subject to the order of the owner.

Any unsold portion of the property seized may be left at the place of sale at the risk of the owner.

If the owner of property seized desires to retain or regain possession thereof, he may give a sufficient bond and surety to produce the property at the time and place of sale, or pay all taxes, penalties, and costs.

PROCEDURE AGAINST UNKNOWN OR NONRESIDENT DELINQUENTS.

§ 866. In all cases where taxes assessed to persons unknown, or to nonresidents of the division, are delinquent and unpaid when due, action may be brought for such taxes and penalties thereon, and the defendant may be named as unknown, or by name if known and a nonresident, as the case may be. In any such case it shall be a good and sufficient service of summons binding on all parties in interest, if, under the order of the magistrate of the district court the title and substance of the action and summons, including a return day, and calling on all parties in interest to appear and defend, shall be published in some weekly newspaper of the Territory for three consecutive weeks, and the magistrates of the district courts to the Territory are hereby given jurisdiction to order such service.

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All such actions shall be heard and determined in the same manner as though personal service was obtained, and judgment may be entered and execution issued and levied upon property for which the tax was assessed or upon property of any such nonresident who may be known.

POLICE MUST ASSIST ASSESSORS.

§ 867. Any assessor when resisted or impeded in the exercise of his office may require any constable or other officer of police to aid him in the discharge of his duties, and if any such officer shall refuse to render such aid he shall be deemed guilty of a misdemeanor.

BOARD OF EQUALIZATION.

§ 868. For the purpose of equalizing assessments of property, as far as practicable, throughout the Territory, the several assessors, with the treasurer as chairman, shall constitute a board of equalization, which shall hold a meeting in Honolulu in the month of December of each year, at such time as may be designated by the treasurer, when such general rules regarding assessments and valuation shall be adopted as may be deemed proper and equable and not inconsistent with any existing law.

TIME OF ASSESSMENT.

§ 869. Property shall be assessed each year, with reference to the quantity and value of the same on the first day of January of such year, except as by this chapter otherwise provided.

TAX RETURN.

§ 970. Each person liable to pay taxes and every owner or possessor of any property, real or personal, whether entitled to exemption or not, shall in the month of January of each year give in to the assessor or the deputy assessor of the district in which said property is located a written or printed taxation return, signed and sworn to by him, enumerating the following facts, viz:

1. The description, situation, and value of the real and personal property subject to taxation belonging to such person, including moneys deposited with trustees, agents of other persons of every kind and from every source, or of which such person had the possession, custody, or control on the first day of January then being or immediately preceding.

All leases, mortgages, incumbrances, and charges secured thereon respectively, with the names and residences of the persons to whom such leases, mortgages, incumbrances or charges are made or owing.

3. All animals subject to taxation which were in the possession, custody, or control of the person making the return on the said first day of January.

4. The names and nationalities of all persons subject to taxation in the employ of such persons on the said first day of January.

§ 871. If any of the property by this chapter directed to be returned shall consist of real and personal property or several classes or kinds or parcels of real or personal property, respectively, which are combined and made the basis of an enterprise for profit, the person making the return shall give a detailed description of such property and state the aggregate value thereof, taking into consideration the net profits

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made by the same, also the gross receipts and actual running expenses, and where it is a company, being a corporation whose stock is quoted in the market, the market price thereof, as well as all other facts and considerations which reasonably and fairly bear upon such valuation.

He shall state what, if any, the net profits as well as the gross proceeds and actual running expenses of such enterprise have been during the twelve months next preceding; and if known, what sale or sales of stock or other interest in such enterprise have taken place during the twelve months next preceding, giving the name of the person selling, the person buying, the number of shares or proportion of interest sold upon each sale; and, when known, the purchase price thereof.

PENALTY FOR FAILURE TO MAKE RETURN.

§ 872. If any person shall refuse or neglect to make said return, or shall decline to take oath to the accuracy thereof, the assessor may make such assessment according to the best information within his reach, and the same shall be binding and conclusive upon all parties, and shall not be subject to appeal.

PERSONAL AND DOG TAXES; WHEN DUE.

§ 873. All personal taxes and dog taxes shall be due and payable on and after the first day of January in the year in which they are assessed. All other taxes shall be due and payable on and after the first day of September in each year.

PUBLIC INSPECTION OF ASSESSMENTS.

§ 874. It shall be the duty of each assessor or his deputy to attend on all days, except Sunday, between the first day of July and the fifteenth day of July of each year, at some convenient place or places in his division or district, between the hours of nine o'clock in the forenoon and four o'clock in the afternoon, with his assessment or tax list, which shall during such times be open for the inspection of all persons liable to taxation in the district, without fee or reward.

Written or printed notice of such places shall be given by advertisement in a weekly newspaper and by posting a notice in at least eight conspicuous places in each district of the time and places at which such tax lists shall be open for inspection in such district.

NOTICE OF APPEAL.

§ 875. Any person whose name may appear on such tax list, who shall have made his return to the assessor, as hereinbefore provided, and, if entitled to exemption, shall have claimed such exemption, and who may deem himself aggrieved by any change made by the assessor in the valuation of the property as returned, or in the amount and character thereof, or whereby the amount payable by such person is increased beyond the amount which would be payable by him according to such return, or whose claim for exemption shall not have been allowed, may appeal from such assessment on lodging with the assessor or deputy assessor, on or before the twentieth day of July, a notice thereof, in writing, stating the grounds of his objection to the assessment or to any part thereof, and depositing therewith the costs of such appeal.

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COSTS.

§ 876. When the exemption or reduction claimed from the tax list shall amount to two dollars and under, the costs to be deposited shall be twenty-five cents; over two dollars and up to five dollars, fifty cents; and fifty cents for every additional five dollars or portion thereof of exemption or reduction claimed.

CERTIFICATE OF APPEAL.

§ 877. On receiving the amount of costs and the statement of appeal the assessor shall grant to the person appealing a certificate in substance in the form following:

——— taxation division, ——— district.

This is to certify that ———, of this district, is assessed for the year 18— as follows:

Value, real estate	$.....
Value, personal property	.....
Dog tax	.....
Cart, dray, and carriage tax	.....
Poll, school, and road tax	.....
Total	$.....

That he disputes the following items of such assessment, viz:

Real property	$.....
Personal property	.....
Dog tax	.....
Cart, dray, and carriage tax	.....
Poll, road, and school tax	.....
Total amount disputed	.....

And has duly appealed from such assessment.

That I have received on deposit the sum of $——— for the cost of this appeal.

Dated ———, 18—.

———— ————,

Assessor (or Deputy Assessor).

TAX APPEAL COURT.

§ 878. Three suitable persons shall be appointed by the governor of the Territory of Hawaii for each judicial circuit, to hold office for one year, who shall respectively constitute courts of appeal to hear and determine all appeals and objections duly taken under this chapter in their several circuits: Provided, however, That no assessor or his deputy shall be appointed to sit as a member of any such court of appeal.

§ 879. To constitute a quorum of such court it shall be necessary that the president and one other member shall be present. The decision of the court or a majority of its members shall be final and conclusive, except as hereinafter provided, and a copy thereof shall be given to the assessor and also to the appellant.

§ 880. The assessor shall alter or amend the taxation list and copy thereof in conformity with the decision of the court.

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POWERS OF TAX APPEAL COURTS.

§ 881. Every such court shall in respect to the summoning and examination of witnesses, and the production of papers and documents, and the punishment for contempts and carrying on the business of the court, have all the powers and authority of a circuit judge at chambers.

§ 882. The said court shall hold sittings in each judicial circuit between the first day of August and the 20th day of August in each year, in each judicial circuit in which the property is situated, on the value of which an appeal may have been taken, at such times as the presiding officers thereof may appoint, and may adjourn from time to time as may be necessary.

PAY OF COURTS.

§ 883. The members of the said court shall receive and be paid, out of the public treasury, compensation for their services at the rate not exceeding five dollars per day for each day's actual attendance, and their actual traveling expenses.

TAXATION OF COSTS.

§ 884. In the event of an appeal or objection being sustained in whole, the costs deposited shall be returned to the appellant; but if the appeal or objection shall be sustained in part only, then a part of the costs paid proportionate to the amount for which the appellant shall obtain judgment shall be returned to him.

APPEAL TO SUPREME COURT.

§ 885. If any tax appeal court shall reduce the valuation of any property below the valuation placed thereon by the assessor;

Or shall value the property at a greater valuation than that placed there in his tax return by the person making the return thereof;

The tax assessor or the taxpayer, as the case may be, may at any time within twenty days appeal to the supreme court from such decision of such tax-appeal court, by filing a notice of appeal, and if the appellant is the taxpayer, depositing with the chairman of such court the sum of one hundred dollars, or file in lieu thereof a bond with sufficient surety to the clerk of the supreme court in the sum of one hundred dollars, conditioned to pay all costs of such appeal in case the same is not sustained.

CERTIFICATE OF APPEAL TO SUPREME COURT.

§ 886. Upon any appeal being perfected as aforesaid the chairman of the tax-appeal court from which such appeal is taken shall immediately certify up to the supreme court the record of all proceedings had before such tax-appeal court in and concerning such cause, in which certificate there shall be set forth:

(1) The valuation of the property in dispute claimed by the assessor.

(2) The valuation of the same claimed by the taxpayer.

(3) The valuation placed thereon by the tax-appeal court.

Such certificates shall be accompanied by a copy of the evidence taken before such tax-appeal court and the decision of such court in such cause.

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EVIDENCE ON APPEAL TO SUPREME COURT.

§ 887. Upon any appeal to the supreme court under the provisions of this chapter, the evidence taken before the tax-appeal court in connection with such appealed cause shall be considered by the supreme court, and it may also, in its discretion, allow further evidence to be introduced by either party.

COSTS ON APPEAL TO SUPREME COURT.

§ 888. The costs of any such appeal to the supreme court, to be paid by the taxpayer if the decision of such court is against him, shall be the same as in other appeals to the supreme court.

No costs shall be assessed to or payable by the assessor.

If the decision of such court is in favor of the taxpayer, he shall not pay any of the costs of such appeal.

TAX RECORDS ARE PRIMA FACIE EVIDENCE.

§ 889. The assessment or tax lists, tax books and copies thereof, and delinquent lists showing unpaid taxes assessed against any person or property shall be prima facie proof of the assessment of the property and person assessed, the amount of taxes due and unpaid, and the delinquency in payment, and that all forms of law in relation to the assessment and levy of such taxes have been complied with.

ASSESSMENT NOT INVALIDATED BY INFORMALITY.

§ 890. No assessment or act relating to the assessment or collection of taxes shall be illegal or invalidate such assessment or collection on account of mere informality, nor because the same was not completed within the time required by law.

JURISDICTION OF DISTRICT MAGISTRATES.

§ 891. The several district magistrates in the Territory shall have jurisdiction to try and determine misdemeanors arising under this chapter, and all complaints for the violation of any of the provisions of this chapter, and to impose any of the penalties therein described, and shall also have jurisdiction to hear and determine all civil actions, suits, and proceedings for the collection and enforcement of collection and payment of all taxes assessed hereunder, notwithstanding the amount claimed.

REPEALED LAW.

§ 892. Section 26 of chapter 61 of the laws of 1892 is hereby repealed, such repeal to take effect upon the date of the publication hereof. The other and remaining sections of chapter 61 of the laws of 1892 are hereby repealed, such repeal to take effect on the 31st day of December, 1896.

§ 893. Such repeal shall not impair or affect any act or thing done or any right accruing, accrued, or acquired, proceedings taken, penalties or liabilities incurred, taxes assessed and unpaid, appointments, orders, returns, and regulations made, certificates granted, or court constituted under the said repealed laws or any of them; and all matters, civil or criminal, commenced under or by virtue of the laws so repealed or any

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of them, and pending when this act goes into effect, may prosecute and defend to final issue in the same manner as they might under the laws theretofore existing.

§ 894. All taxes now assessed and unpaid shall be due and payable and may hereafter be sued for, distrained for, enforced, and collected, notwithstanding the repeal of the above-named laws, as if said repealed laws were in force.

§ 895. Any person who, when this act takes effect, shall hold any office under any act hereby repealed shall continue to hold the same according to the tenure thereof and have the powers to him herein granted until his successor shall be appointed and qualified.

NOTE TO CHAPTER 59.

§§ 804–891 are S. L. 1896, act 51, amended as follows: § 854 by S. L. 1898, act 36; §§ 878, 882, by S. L. 1898, act 22.

Penalties for violation of this chapter. See penal laws, §§ 1496–1500.

Cases in Hawaiian Reports: Mott-Smith v. Kockemann, 3 Haw., 320; Castle v. Luce, 5 Haw., 321; Turton v. Kapena, 5 Haw., 279; Hipa v. Luce, 5 Haw., 523; Kahinu v. Aea, 6 Haw., 69; McBryde v. Kala, 6 Haw., 531; Re Richardson, 6 Haw., 216; Thompson v. Montgomery, 6 Haw., 23; Minister v. Knudsen, 6 Haw., 321; Kupau v. Richards, 6 Haw., 245; Brewer v. Luce, 6 Haw., 555; Union Feed Co. v. Luce, 7 Haw., 66; Hilo Co. v. Minister, 7 Haw., 669; Jones v. Norris, 8 Haw., 72; Knudsen v. Stolz, 8 Haw., 82; R. R. v. Brown, 8 Haw., 164; Mika v. Knudsen, 8 Haw., 198; Hilo Co. v. Austin, 8 Haw., 277; Hutchinson Co. v. Govt., 8 Haw., 309; Lloyd v. Kalana, 8 Haw., 355; Brown v. Smith, 8 Haw., 678; Parker v. Shaw, 9 Haw., 408; Re Income Tax, 10 Haw., 317; Inter-Island Co. v. Shaw, 10 Haw., 624; Dowsett v. Shaw, 10 Haw., 641; Oahu Ry. v. Shaw, 10 Haw., 643.

CHAPTER 60.

TAXATION, EDUCATIONAL, AND JUDICIAL DISTRICTS.

§ 896. For taxation, educational, and judicial purposes the several islands shall be divided into the following districts:

The island of Hawaii shall be divided into nine districts, as follows:

1. From the boundary of Hamakua and Hilo to the Hakalau Stream, to be called the North Hilo district;
2. From the Hakalau Stream to the boundary of Hilo and Puna, to be called the Hilo district;
3. Puna;
4. Kau;
5. South Kona;
6. North Kona;
7. South Kohala;
8. North Kohala;
9. Hamakua.

The islands of Maui, Molokai, Lanai, and Kahoolawe shall be divided into six districts, as follows:

1. From Kahakuloa to Ukumehame, inclusive, to be called the Lahaina district;
2. From Waihee to Honuaula, inclusive, and also including Kahoolawe, to be called the Wailuku district;
3. Kahikinui, Kaupo, Kipahulu, Hana, and Koolau to be called the Hana district;
4. Hamakualoa, Hamakuapoko, Haliimaele, Makawao, and Kula to be called the Makawoa district;
5. Molokai;
6. Lanai.

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The island of Oahu shall be divided into five districts, as follows:

1. From Maunalua to Moanalua, inclusive, to be styled the Honolulu district;

2. Ewa and Waianae, to be styled the Ewa district;

3. From Kaena Point to and including the Ahupuaa of Waimea, to be styled the Waialua district;

4. From Waimea to Kaoio Point, to be styled the Koolauloa district;

5. Koolaupoko.

The islands of Kauai and Niihau shall be divided into six districts, as follows:

1. From Puanaaiea Point to the Ile of Eleele, to be styled the Waimea district;

2. From and including the Ile of Eleele to and including Mahaulepu, to be styled the district of Koloa.

3. From and including Kipu to and including Wailua, to be styled the district of Lihue.

4. From Wailua to Kealaakaiole, to be styled the Kawaihau district.

5. From and including Kealaakaiole to Puanaaiea Point, to be styled the Hanalei district.

6. The island of Niihau.

NOTE TO CHAPTER 60.

§ 896 is S. L. 1886, ch. 44, amended as follows: Island of Kahoolawe, S. L. 1890, ch. 23; islands of Kauai and Niihau, S. L. 1887, ch. 37.

CHAPTER 61.

EXEMPTIONS FROM TAXATION.

FOREST LANDS.

Whereas the preservation of forests is a matter of great public interest in consequence of their influence upon the water supply of the Territory: Therefore,

Be it enacted, etc.:

§ 897. In all cases where forest land is fenced for the purpose of protecting the forest or springs or streams of water rising on said premises or flowing through the same, and all live stock are excluded from the same, and no other use of such lands or its products is made, such land, so long as such conditions exist, shall be exempt from taxation.

In order to secure such exemption the person claiming it shall annually, between the first and thirty-first days of July, make a sworn statement to the local tax assessor describing the land in detail and setting forth the facts upon which exemption is claimed, including an agreement that in consideration of the exemption from taxes he will during the year next succeeding keep such land properly fenced, will not allow any live stock upon it, and will not use such land or its products during such year without first paying the taxes thereon.

§ 898. Any person who shall have secured such exemption who shall violate the terms of such agreement shall be liable to be fined twice the amount of the tax which would be assessed upon such land but for such exemption, and any district magistrate is hereby given jurisdiction of such matter.

LEPERS.

§ 899. All lepers residing at Kalawao and Kalaupapa, on the island of Molokai, are hereby declared exempt from the payment of any per-

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sonal tax or taxes upon personal property owned and kept by them at Kalawao and Kalaupapa, Molokai.

NOTE TO CHAPTER 61.

§§ 897–898 are S. L. 1892, ch. 74. § 899 is S. L. 1896, ch. 42. See also § 953 (canaigre), § 954 (coffee and ramie), § 955 (jams, jellies, and fruit syrups).

[*CHAPTER 62.*]

[§§ 900–909.]

CHAPTER 63.

TAX ON LEGACIES, BEQUESTS, AND INHERITANCES.

§ 910. All property which shall pass by will or by the intestate law of this Territory from any person who may die seized or possessed of the same while a resident of this Territory, or if such decedent was not a resident of this Territory at the time of death, which property or any part thereof shall be within this Territory, or any interest therein or income therefrom which shall be transferred by deed, grant, sale, or gift made or intended to take effect in possession or enjoyment after the death of the grantor or bargainor, to any person or persons, or to any body public or corporate, in trust or otherwise, or by reason whereof any person or body public or corporate shall become beneficially entitled in possession or expectancy to any property, or to the income thereof, other than to or for the use of his or her father, mother, husband, wife, child, or adopted child, adopted as such in conformity with laws of this Territory, or grandchild, or incorporated or private schools now exempted by law from taxation, by reason whereof any such person or school shall become beneficially entitled, in possession or expectancy, to any such property, or to the income thereof, shall be and is subject to a tax of five dollars on every hundred dollars of the clear market value of such property, and at and after the same rate for any less amount, to be paid to the treasurer for the use of the Government; and all administrators, executors, and trustees shall be liable for any and all such taxes until the same shall have been paid as hereinafter directed, provided that an estate which may be valued at a less sum than five hundred dollars shall not be subject to such duty or tax.

§ 911. Any administrator, executor, or trustee having in charge or trust any legacy or property for distribution subject to the said tax, shall deduct the tax therefrom, or if the legacy or property be not money, he shall collect the tax thereon upon the appraised value thereof from the legatee or person entitled to such property, and he shall not deliver or be compelled to deliver any specific legacy or property subject to tax to any person until he shall have collected the tax thereon; and whenever any such legacy shall be charged upon or payable out of real estate the heir or devisee, before paying the same, shall deduct said tax therefrom and pay the same to the executor, administrator, or trustee, and the same shall remain a charge on such real estate until paid, and the payment thereof shall be enforced by executor, administrator, or trustee in the same manner that the payment of such legacy might be enforced.

§ 912. All executors, administrators, and trustees shall have full power to sell so much of the property of the decedent as will enable them to pay said tax in the same manner as they may be enabled by law to do for the payment of debts of their testators and intestates and the amount of tax shall be paid as hereinafter directed.

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§913. Every sum of money retained by an executor, administrator, or trustee, or paid into his hands for any tax on any property, shall be paid by him within thirty days thereafter to the treasurer, who shall give a receipt to him for the same, which receipt shall be a proper voucher in the settlement of his accounts, but an executor, administrator, or trustee shall not be entitled to credit in his accounts, nor be discharged from liability for such tax, nor his accounts be allowed and approved and he be discharged unless he shall produce such receipt.

§914. Whenever any foreign executor or administrator shall assign or transfer any stocks or loans in this Territory standing in the name of a decedent or in trust for a decedent, which shall be liable for said tax, such tax shall be paid to the treasurer on the transfer thereof; otherwise the corporation permitting such transfer shall become liable to pay such tax to the treasurer.

§915. The value of any property subject to such tax shall be fixed by an appraiser or appraisers who shall be appointed by the court to appraise the estate of decedent or any specific part of estate of decedent. The appraiser or appraisers shall be paid out of the estate of decedent as an expense of administration.

§916. In case of any dispute as to any tax the court having jurisdiction of decedent's estate in this Territory shall have jurisdiction to try and determine the same: Provided, That the supreme court shall always have such jurisdiction.

§917. All taxes levied and collected under this chapter shall be paid to the treasurer for the use of the government.

NOTE TO CHAPTER 63.

§ 910 is S. L. 1896, act 21. §§ 911-917 are S. L. 1892, ch. 106.

CHAPTER 64.

STAMP DUTIES.

§ 918. From and after the coming into operation of this chapter there shall be due and payable to the government in respect of the several deeds, documents, and instruments mentioned and specified in the schedule hereunder written, the several sums of money for stamp duty set forth in the said schedule.

§ 919. The treasurer shall, and he is hereby, required to obtain a sufficient number of dies for stamps, and of adhesive stamps, to carry out the provisions of this chapter.

§ 920. The said dies and adhesive stamps shall be placed in charge of the registrar of public accounts, who shall stamp all instruments requiring to be stamped with the proper stamp denoting the amount of duty paid, and shall supply to any person applying therefor such adhesive stamps as he may require and pay for. Provided, That until the treasurer shall, by public notification in all the newspapers published in Honolulu, give notice that he has adhesive stamps sufficient to supply the wants of the public, postage stamps of the Territory may be affixed by the parties to all instruments liable to a stamp duty of less than one dollar.

§ 921. All persons using adhesive stamps or postage stamps shall immediately deface and cancel the same by writing across them their names and the date of cancellation, or by some other means deface the same so that they may not be used a second time.

§ 922. Every instrument requiring to be stamped shall be stamped

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fairly and so that the stamp can not be used for another instrument on the same paper.

§ 923. Every instrument containing distinct matters, or made for more than one consideration, shall be stamped on each matter or consideration.

§ 924. All consideration money shall be set out in words at length in all instruments, and all other considerations affecting the liability of an instrument to duty shall be set out fully.

§ 925. All instruments except those for which adhesive stamps may be used may be stamped by the registrar of public accounts within three months after the execution thereof without any penalty being charged; but if stamped after the said space of three months the instrument shall be liable to, and the person presenting the same shall, pay a penalty of one hundred per cent of the value of the duty. Provided, however, That instruments executed in foreign countries may be stamped within three months after their arrival in this Territory without the payment of any penalty.

§ 926. For the purpose of this chapter and the clear understanding thereof the date of the instrument shall be that of the instrument itself, when the instrument has not been acknowledged; but if it has been acknowledged, and the date of acknowledgment differs from the date of the instrument itself, then the date of acknowledgment shall govern.

§ 927. No instrument requiring to be stamped shall be recorded by the registrar of conveyances, or be of any validity in any court of this Territory, unless the same shall be properly stamped. Provided, That instruments improperly stamped may be received in evidence in courts of record if the unpaid duty and penalty be paid to the clerk of the court, and on such payment being made the clerk of the court shall forward the instrument to the registrar of public accounts to be properly stamped.

§ 928. The registrar of public accounts shall in all cases assess the duty payable upon instruments presented to him to be stamped, and on payment of the same he shall affix stamps denoting the amount paid and shall also denote the day of payment.

§ 929. If the registrar of public accounts shall think an instrument presented to be stamped is not liable to duty, he shall affix a stamp thereon denoting such fact.

§ 930. If the registrar of public accounts shall be in doubt as to whether an instrument is liable to stamp duty, or as to the amount of duty payable, he shall refer the matter to the treasurer.

§ 931. Any person dissatisfied with the assessment made by the treasurer may, on paying the duty within twenty-one days, and depositing with the treasurer the sum of ten dollars for costs, appeal to the supreme court on a case which he may require the treasurer to furnish, and the court shall decide the question at the next ensuing term thereof. If the decision of the treasurer is sustained, the sum deposited for costs shall be paid to the clerk of the court; otherwise shall be returned to the appellant.

§ 932. When the consideration for a conveyance consists of periodical payments for a definite period, duty shall be charged on the total amount of such payments.

§ 933. If such payments are for a period not terminable with a life, then duty shall be paid on the total amount of the payments for twelve years after the execution of the deed.

§ 934. When the consideration is a life annuity, duty shall be paid on the amount of the payments for seven years after the execution of the deed.

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§ 935. When property sold for one consideration shall be conveyed by separate instruments to a purchaser, the consideration shall be apportioned as the purchaser may think fit.

§ 936. When a purchaser who has not obtained a conveyance shall sell to another and the property shall be conveyed direct to the latter, duty shall be charged on the consideration from the subpurchaser to the first purchaser.

§ 937. When the consideration for any conveyance or other transfer of property consists of goods or other lands, the duty shall be calculated upon the market value of such goods or lands, to be ascertained in such manner as the treasurer may direct.

§ 938. Where property is conveyed subject to a mortgage, the amount due upon such mortgage shall be stated in the body of the conveyance, and duty shall be calculated and paid upon the amount so due and the amount expressed to be paid in addition.

§ 939. In case of the sale of a sugar plantation, rice plantation, sheep or cattle run, then duty shall be charged and paid upon the whole amount paid for the plantation, run, improvements, stock, and growing crops.

§ 940. For the convenience of the districts outside of Honolulu, the registrar of public accounts shall provide adhesive revenue stamps to the postmaster-general of Honolulu, for delivery to all money-order post-offices throughout the Territory, he giving receipts for the same and being bound on the first day of each quarter to account to the registrar for all such stamps received by him, the amount sold and the balance unsold, together with the proceeds of such sales.

§ 941. *Schedule.*

Agreement	$1.00
When divers letters are offered in evidence to prove agreement between the writers, it shall be sufficient to stamp one of such letters.	
Annuity—Purchase of release, reconveyance of, when the consideration does not exceed $500	1.00
For every $500, or part of $500, after the first	1.00
Articles of copartnership	5.00
Articles of adoption	1.00
Assignment of property, real or personal, not otherwise charged	1.00
Bill of sale of ships or vessels, or other property, if absolute, the same duty as on a conveyance; if by way of security, the same duty as on a mortgage.	
Bond—If given to secure the payment of a sum certain and without mortgage, the same duty as on a mortgage, if given with a mortgage, provided mortgage bears even date with and is referred to in the bond	Exempt.
All other bonds, official or otherwise	1.00
Certificates of stock of corporations, on every $100 (or fraction thereof), par value of the share or shares, issued or conveyed	.20
Charter party or agreement, or contract for charter of vessels	10.00
Charters or articles of association, public or private	25.00
Contracts between masters and servants for labor	1.00
If for more than one year, then for each year or part of a year after the first	1.00
(This duty to be charged on the original and duplicate copies, fifty cents on each copy for each year, or fractional part thereof, of the term of the contract, and to be paid by the employer.)	
Conveyance upon the sale of any property, real or personal, or right therein, upon the principal or only deed or instrument, when the purchase or consideration money therein expressed shall not exceed $500	1.00
And when exceeding $500, and not exceeding $1,000	2.00
And when exceeding $1,000, and not exceeding $10,000, for every $1,000 or fractional part thereof	3.00
And when exceeding $10,000, and not exceeding $50,000, for every $1,000 or fractional part thereof	4.00
And when exceeding $50,000, for every $1,000 or fractional part thereof	5.00
Upon trust for sale as security, same duty as upon a mortgage.	

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Deed not otherwise charged $1.00
Duplicate or counterpart of any deed or instrument of any description whatever, chargeable with stamp duty not otherwise charged 1.00
Exchange deed, whereby any lands or other hereditaments are conveyed in exchange for others; if no sum, or a sum not exceeding $500, is paid, or to be paid, for equality of exchange 1.00
If above $500, *ad valorem*, duty as on sale on money to be paid.
Lease in consideration of money paid by way of premium, *ad valorem* duty the same as on conveyance upon the amount paid, and where a yearly rent in money or product is reserved in addition to the premium, or no premium is paid, where such rent shall not exceed $500 per annum 1.00
If above $500 per annum, then for every $500 or fractional part thereof 1.00
If the rental consideration be based upon a share or percentage of crop, then the expected yield and ruling market price must be shown to obtain the annual money value consideration, as above provided.
Letters of license from creditors to a debtor 10.00
Letters testamentary, or of administration, or of guardianship 1.00
Licenses issued from the office of the treasurer or other government department, as follows:
On licenses of a $20 fee or under ..... .50
On licenses over $20 to $50 ..... 1.00
On licenses over $50 to $100 ..... 2.00
On licenses over $100, for every additional $50 or fractional part thereof. 1.00
Mortgage, or charge on, or affecting any lands or property real or personal, whatsoever:
Also any conveyance of lands, estate, or property whatsoever in trust, to be sold or converted into money, which shall be intended only as a security, and shall be redeemable before the sale or disposal thereof, either by express stipulation or otherwise (except where for benefit of creditors generally).
Where, respectively, as security for payment of any definite and certain sum of money advanced or lent at the time, or previously due and owing, or forborne to be paid, being payable, not exceeding $1,000 ..... 1.00
And for every additional $1,000 or fractional part thereof not exceeding $10,000 ..... 2.00
And for every additional $1,000 when the amount secured is over $10,000. 3.00
Future advances, or sums to be due on account current, together with any sum already advanced or due, or without, as the case may be:
If total amount of money secured or to be ultimately recoverable thereupon shall be limited, not to exceed a certain sum, duty as on mortgage for that sum.
If such total amount uncertain and without any limit, same shall be available as a security or charge for such an amount only as the *ad valorem* duty denoted by the stamp or stamps thereon will extend to cover.
Partition—Any deed whereby any lands or other hereditaments shall be conveyed in order to effect a partition. If a sum exceeding $1,000 is paid or agreed to be paid for equality of partition, *ad valorem* duty as on sale. If less than $1,000 ..... Exempt.
Patents—Royal, for land 1.00
For inventions 10.00
Policy of marine insurance, or other instruments whereby any ship, vessel or merchandise is insured against marine risks. If the voyage insured against is to or from Europe, China, Japan, or the eastern coast of the continent of America, or any East or West Indian ports, for every $1,000 or part thereof assured 1.00
If the voyage insured against is to or from Australia, New Zealand, the Fijian or Samoan islands, the western coast of the continent of America to the southward of the State of California, for every $1,000 or part thereof assured ..... .50
If the voyage insured against is to and from California, Oregon, British Columbia, Washington, Tahiti, or any other of the Polynesian or Micronesian islands, and other places where insurance is of the like rates, for every $1,000 or part thereof assured ..... .25
Power of attorney 1.00
Original petitions—To courts of record, summonses to parties, attachments, and executions issued by courts of record 2.00
Release, assignment, reconveyance, or other discharge of mortgage 1.00
Renunciation or disclaimer of any lands or other property, real or personal, or of any right or interest therein 2.00
Settlement of real or personal property, money, or government bonds, upon the marriage of any person or otherwise, or upon good or valuable consideration other than *bona fide* pecuniary consideration 5.00

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NOTE TO CHAPTER 64.

§§ 918–939 are S. L. 1876, ch. 55, C. L., p. 602, except § 926, which is S. L. 1892, ch. 103. § 940 is S. L. 1890, ch. 73. § 941 is S. L. 1892, ch. 103.
Cases in Hawaiian Reports: Hilo v. Nioshi, 8 Haw., 211; Minister v. Castle, 8 Haw., 105; Re Stamp Duty, 10 Haw., 514; Re Tramways Co., 9 Haw., 281.

[*CHAPTER 65.*]

[§§ 942–960.]

[*CHAPTER 66.*]

[§§ 961–968.]

[*CHAPTER 67.*]

[§§ 969–973.]

[*CHAPTER 68.*]

[§§ 974–987.]

[*CHAPTER 69.*]

[§§ 988–1009.]

CHAPTER 70.

TARIFF OF CHARGES FOR THE TREASURY.

§1010. For the receipt, care, and disbursement of all residuary moneys belonging to the estate of any intestate, a commission of ten per cent.

For the receipt, care, and storage of any residuary property other than money, five per cent *ad valorem* per annum, besides all actual expenses.

For administering any oath, one dollar.

For every copy of any document, fifty cents per hundred words.

For all other acts and duties the fees of which are not otherwise provided for, such charges as the treasurer may from time to time prescribe.

CUSTOM-HOUSE CHARGES.

§ 1011. For visit of health officer, when required, five dollars; and when necessarily detained on board, ten dollars per day.

For entrance pilotage at the ports of Honolulu, Hilo, and Hanalei, one dollar per foot upon the vessel's draught.

For departure pilotage from any of said ports, one dollar per foot upon the vessel's draught.

For anchoring any vessel off the port of Honolulu, ten dollars; and if the pilot be detained longer than twenty-four hours, five dollars per day for such detention.

For the benefit of buoys, two dollars.

For lights at Lahaina, two dollars.

For boarding officers, at those ports where no pilotage is charged, five dollars.

For every hulk moored in the harbor of Honolulu, one hundred dollars per annum.

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For recording every bill of sale, mortgage, or hypothecation of a vessel, or part thereof, fifty cents per hundred words.

For every copy of the same, fifty cents per hundred words.

The charges for all other acts and duties not herein prescribed, and also the rates of storage, shall be such as may from time to time be prescribed by the treasurer.

HARBOR MASTER'S CHARGES.

§ 1012. For boarding and mooring vessels, the fees prescribed in section 1185 of the penal laws.

NOTE TO CHAPTER 70.

§§ 1010–1012 are C. L., §§ 690–692.

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TITLE VI.

DEPARTMENT OF ATTORNEY-GENERAL.

CHAPTER 71.

THE ATTORNEY-GENERAL.

§ 1013. The attorney-general shall appear for the government, personally or by deputy, in all the courts of record of this Territory, in all cases, criminal or civil, in which the government may be party or be interested, and he shall in like manner appear in the district courts when requested so to do by the chief sheriff of the Territory or the sheriff of any one of the islands.

§ 1014. He shall also be vigilant and active in detecting offenders against the laws of the Territory, and shall prosecute the same with diligence. It shall also be his duty to enforce all bonds and other obligations in favor of government that may be placed in his hands for that purpose by any person having the lawful custody of such papers; and he shall likewise be diligent in prosecuting all persons who may obstruct any street, channel, harbor, wharf, or other highway, or any stream or public water course, or commit any trespass or waste on any portion of the public domain or other public property.

§ 1015. The said attorney-general shall, without charge, at all times when called upon, give advice and counsel to the governor, the chief sheriff, sheriffs, justices, and other public officers in all matters connected with their public duties, and otherwise aid and assist them in every way requisite to enable them to perform their duties faithfully.

§ 1016. It shall also be the duty of the said attorney-general to give counsel and aid to poor and oppressed citizens of the Territory, and to ssist them in obtaining their just rights without charge: Provided, however, That he shall not be obliged to render such aid, counsel, and assistance unless requested so to do by the governor.

§ 1017. Said attorney-general shall not receive any fee or reward from or in behalf of any person or prosecutor for services rendered in any prosecution or business to which it shall be his official duty to attend, nor be concerned as counsel or attorney for either party in any civil action depending upon the same state of facts.

§ 1018. He shall account with the treasurer every three months for all fees, bills of costs, fines, penalties, and other moneys received by him by virtue of his office.

§ 1019. Said attorney-general shall, when required, give his opinions upon questions of law submitted to him by the governor, the legislative assembly, or the head of any department.

§ 1020. The said attorney-general shall receive such salary as may be voted from time to time by the legislature, which shall be paid to him out of the public treasury, in equal monthly payments, in full for all services rendered by him.

§ 1021. The attorney-general may from time to time appoint a deputy for any judicial district whensoever the exigencies of the public service

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may require it, and shall be responsible for all the acts of such deputy or deputies.

§ 1022. All the duties imposed by existing laws on district attorneys formerly are hereby required to be performed by the attorney-general.

NOTE TO CHAPTER 71.

§§ 1013–1022 are S. L., 1866, C. L., p. 315.
Cases in Hawaiian Reports: R. v. Robertson, 6 Haw., 727; Re Cabinet, 8 Haw., 573.

CHAPTER 72.

POLICE.

§ 1023. The attorney-general shall have the care, supervision, and control of the entire internal police of the Territory, subject to the provisions of this chapter.

§ 1024. There shall be a chief sheriff of the Territory, hereinafter named the chief sheriff. He shall be the chief of police for the Territory, and shall be responsible to the attorney-general. He shall have the supervision and control of the sheriffs and subordinate officers of the internal police.

§ 1025. Any person who shall be hereafter nominated and commissioned to the office of chief sheriff shall, before entering upon the duties of such office, execute and deliver to the attorney-general a bond in a penal sum of not less than five thousand dollars ($5,000), with sufficient surety or sureties, to be approved by any justice of the supreme court, and such approval to be by such justice endorsed on said bond, conditioned for his faithful execution of all process directed to him by any of the courts of the Territory for the faithful accounting for and due return of all fines, penalties, and moneys collected by him; for the safe-keeping of all prisoners duly committed to his custody, and for the faithful performance of all other duties of his office; and that he will take only the lawful fees of his office.

The attorney-general, with the approval of any justice of the supreme court, or a majority of the justices of the supreme court, may, as occasion may require, exact additional bonds or increased security from the chief sheriff, conditioned as above, provided not more than twenty thousand dollars ($20,000) in all shall be thus exacted. The bond or bonds given as herein provided shall be filed and preserved in the office of the clerk of the supreme court.

§ 1026. There shall be a sheriff for the island of Hawaii, a sheriff for the islands of Maui, Molokai, Lanai, and Kahoolawe, and a sheriff for the islands of Kauai and Niihau, who shall have the exercise, the care, supervision, and control of the police within their respective jurisdictions, subject, however, to the superior control of the chief sheriff and the attorney-general.

§ 1027. The respective sheriffs shall be appointed by the chief sheriff, by and with the approval of the attorney-general, to be endorsed on the commission of the sheriff so appointed.

They shall hold their offices subject to removal by the chief sheriff, with the approval of the attorney-general.

§ 1028. The respective sheriffs shall give bonds, with sufficient sureties, to the attorney-general in a penal sum of not less than three thousand dollars ($3,000). Such bonds shall be conditioned, and may be increased or new bonds or other sureties exacted, as provided in the case of the chief sheriff in section 1025, provided that not more than

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ten thousand dollars ($10,000) in the aggregate shall be exacted in bonds from any sheriff. Such bonds shall be filed and preserved in the office of the clerk of the supreme court.

§ 1029. In case of any breach of the condition of any bond so furnished by the chief sheriff, or by any sheriff, any person thereby injured may institute a suit upon such bond in his own name and for his sole use, or for the use of any person or persons whom he therein represents, and thereupon recover such damages as shall be legally assessed, with costs of suit, for which execution may issue in favor of such person. Such bond shall, after any judgment rendered thereon, remain as a security for the benefit of any person injured by the breach of any condition thereof until the whole penalty shall have been recovered. No suit upon any such bond shall be commenced later than two years after the right of action shall have accrued: Provided, That infants, femmes coverts, and persons noncompos may sue upon or in respect thereof within one year after their disabilities shall cease.

§ 1030. The chief sheriff shall, with the approval of the attorney-general, appoint and commission not more than two deputies chief sheriff, for whose acts and defaults the chief sheriff shall be responsible upon his official bond. Each deputy chief sheriff so appointed shall be authorized to do or perform any act or thing required by law to be done or performed by the chief sheriff. The chief sheriff shall exact from his deputies bonds of indemnity with sufficient sureties for the due and faithful discharge of their duties, which bonds may be in any amount, not to exceed ten thousand dollars ($10,000), that shall be approved by the attorney-general.

§ 1031. It shall be the duty of the chief sheriff and of the several sheriffs, within their respective jurisdictions, to preserve the public peace, to have charge of all jails and prisons, to safely keep all persons committed to their charge, to execute all lawful precepts and mandates directed to them by any judge, court, the governor, or other person thereunto authorized; to arrest fugitives from justice, as well as all criminals and violators of the laws, and generally to perform all such other duties as may be imposed upon them by law, for any of which purposes they may command all necessary assistance, civil or military.

§ 1032. The chief sheriff for and within the island of Oahu, subject to the approval of the attorney-general and the several sheriffs for and within their respective jurisdictions, subject to the approval of the chief sheriff, may appoint such deputies sheriff and other police officers as occasion may require, and may dismiss them in their discretion; and may in like mannner apportion the duties, and adjust the compensation of such officers, except as otherwise provided by law: Provided, however, That the number of regular police officers or constables shall not exceed, for the island of Oahu, one hundred; for the islands of Maui, Molokai, Lanai, and Kahoolawe, eighty; for the island of Hawaii, one hundred; for the islands of Kauai and Niihau, forty: And further provided, That nothing in this section contained shall be construed to prevent the appointment of any number of special constables to serve without pay, except that for service during any emergency such special officers may be paid, in the discretion of the officer by whom they were appointed to serve during such emergency, if such payment be approved by the attorney-general.

§ 1033. The chief sheriff and the several sheriffs may exact from the deputies sheriff appointed by them respectively private bonds of indemnity, and shall be severally responsible for the official acts of such deputies.

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§ 1034. The chief sheriff, sheriffs, and deputy sheriffs shall receive in full payment of their services such annual salaries or compensation as shall from time to time be prescribed by the legislature: Provided, however, That the legally prescribed fees received from the sale and conveyance of property under execution or other writ or order issued from any court, to an amount not exceeding fifty dollars for any one such sale and conveyance, shall belong to the chief sheriff, or to the sheriff, or to the deputy sheriff making such sale and conveyance, the excess of such fees over said sum of fifty dollars, if any, to be returned to the treasury as a government realization.

§ 1035. Any police officer or constable appointed to or holding office under this chapter may be removed at any time by any judge of a court of record, or by the district magistrate of Honolulu (if the officer so sought to be removed shall be a member of the police force for the island of Oahu), for incompetency, corruption, or misbehavior in office.

§ 1036. In all cases in which the chief sheriff or any sheriff, deputy sheriff, or constable shall be a party, plaintiff or defendant, to any suit or cause pending in any court of the Republic, the officer so interested shall not be competent to execute any process in such suit, and the court, when necessary, may appoint some disinterested person to act as a substitute for such officer to execute such process, who shall, in all respects, be accountable to the court for his conduct.

§ 1037. In case of the death, resignation, or removal from office of the chief sheriff or any sheriff without having executed, or having executed only in part, any process in his hands, the execution of such process may be effected or completed by the deputy of such chief sheriff or sheriff, or by such other police officer as shall be thereunto appointed by the attorney-general: Provided, That if a successor to such chief sheriff or sheriff shall be appointed, such successor shall be responsible for the completion of the execution of such process from the point to which the same had progressed at the time of his assumption of such office. The power hereby conferred shall extend to the execution, acknowledgment, and delivery by such deputy or other designated police officer as aforesaid, or by the successor of such chief sheriff or sheriff as aforesaid, of all deeds or other instruments of conveyance.

§ 1038. The chief sheriff and the respective sheriffs shall file all warrants, mittimuses, processes, and other official papers, or the attested copies of them, by which any prisoner shall have been committed or liberated, and they shall be safely kept in a suitable box or safe, and upon the death, resignation, or removal from office of such chief sheriff or sheriff, shall be delivered, together with all other official records, papers, and journals, to his successor, or to any other officer or person duly appointed to receive them; and in default of such delivery, such chief sheriff or sheriff, if living, may be held liable for embezzlement, as provided by section 158 of chapter 18 of the penal laws, and shall also be civilly liable in damages to any person or persons who shall be injured by such nondelivery. If such chief sheriff or sheriff shall be dead, such civil liability shall attach to his personal representatives and the sureties upon his official bond, jointly and severally. In addition to such civil liability as aforesaid, such chief sheriff or sheriff, or their personal representatives and sureties on their official bonds, shall forfeit and pay for each such default in delivery the sum of two hundred dollars, to be recovered for the use of the public treasury.

§ 1039. All process of any court of record shall be addressed to the chief sheriff or to any sheriff or their deputies, except as may be otherwise provided by law, and it shall be the duty of the chief sheriff or

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sheriff and their deputies to execute the same at their peril according to the tenor thereof; and they shall not be liable for any damages resulting from the execution of such process.

§ 1040. The chief sheriff, any sheriff, deputy sheriff, or other police officer may decline to levy upon or sell the alleged property of any person against whose goods and effects an execution or other similar writ may issue, unless the party beneficially interested in such writ shall, upon request, tender to such officer a sufficient bond of indemnity against the claims of third parties.

§ 1041. The respective sheriffs shall, quarterly, render, in duplicate, a true and itemized account of all fees, fines, and other money which they shall have received by virtue of their office, one copy of which shall be forwarded to the attorney-general and one to the chief sheriff by whom, respectively, such reports shall be filed and preserved.

§ 1042. The chief sheriff shall, quarterly, render to the attorney-general a true and itemized account of the whole amount of money received by him, in which statement the moneys received to his own use and benefit shall be stated separately from those received to the use or on account of the Government or of private parties. He shall, in like manner and at like intervals, as well as at any other time when the attorney-general shall so request, report to the attorney-general concerning such other matters appertaining to the administration of the police department as the attorney-general may deem proper.

§ 1043. Any court of record may inquire by proceedings of quo warranto into the validity of the appointment or claim by which any person shall hereafter hold, or claim to hold, or exercise the functions, or receive or enjoy the privileges or emoluments of the office of chief sheriff, sheriff, deputy sheriff, or any other office hereinbefore provided for. The proceedings upon such inquiry shall conform as nearly as may be to the forms prescribed in the case of a writ of quo warranto to a person who claims or usurps an office in a corporation, as provided by chapter 104. Such proceedings may be instituted by either the attorney-general, in his official capacity, or by any private person having any interest in such inquiry.

§ 1044. The chief sheriff and his deputies, and the several sheriffs and their respective deputies, are hereby authorized to administer oaths in all cases in which oaths are by law authorized or required to be taken or administered, or in which the administering of an oath may be proper.

§ 1045. The office of governor of any island or islands within this Territory is hereby abolished.

§ 1046. The chief sheriff of the Territory for and within the island of Oahu, and the sheriffs of the different islands other than Oahu within their respective jurisdictions, shall hereafter discharge the duties hereinafter enumerated, which have heretofore been discharged and performed by the governors of the different islands; that is to say, with respect to:

1. The administration of oaths and the taking of depositions.
2. The control, preservation, and disposition of wrecks and wreckage.
3. The shipping and discharge of seamen.
4. The testing and certification of weights and measures.

§ 1047. In order to facilitate the due performance of their duties by the said chief sheriff and sheriffs, as provided in the preceding section, all rights, privileges, and fees heretofore accruing to, or possessed by, and all bonds running to the said governors, or any of them, in respect of the matters pertaining to any of said duties, shall hereafter be pos-

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sessed by and accrue and run to and in favor of the said chief sheriff and sheriffs within their respective jurisdictions.

NOTE TO CHAPTER 72.

§§ 1023–1043 are S. L. 1888, ch. 8 amended; § 1034 by S. L. 1892, ch. 13. § 1044 is S. L. 1895, act 2. § 1045 is S. L. 1888, ch. 44. §§ 1046–1047 are S. L. 1888, ch. 37.
Cases in Hawaiian Reports: Smyth v. Hogarty, 1 Haw., 206; Re Cabinet, 8 Haw., 568.

CHAPTER 73.

PRISONS AND HOUSES OF CORRECTION.

§ 1048. The attorney-general, with the approval of the governor, shall have the power to erect such suitable prisons, jails, station houses, and houses of correction as may be necessary for the safe-keeping, correcting, governing, and employing of all persons duly committed thereto, and also, with the approval of the governor, to prescribe rules and regulations for their government and discipline.

§ 1049. The chief sheriff of the Territory is responsible for the safe-keeping of all prisoners, and therefore he shall have the nomination and appointment, with the approval of the attorney-general, of all jailors and other prison officers, who shall hold office during the pleasure of said chief sheriff. Such jailors and other officers shall be men of sobriety, honesty, and industry.

§ 1050. The chief sheriff shall cause to be kept in every prison a journal, in which shall be regularly entered the reception, discharge, death, pardon, or escape of any prisoner; and also all punishments that are inflicted for a breach of prison discipline, as they occur, and all other occurrences of note that concern the state of the prison.

§ 1051. On the commitment of any prisoner there shall be entered on the journal the sex, age, height, and personal description of such prisoner, his last place of abode, and place of nativity.

§ 1052. The chief sheriff shall cause to be kept an exact account of all the receipts and expenditures of each prison and make a monthly report of the same to the attorney-general.

§ 1053. Said chief sheriff shall cause each prison to be kept in a clean and healthy condition, and the whole interior thereof shall be thoroughly whitewashed with lime once in every three months.

§ 1054. Said chief sheriff shall provide for each prisoner who may be able and desirous to read a copy of the Bible or of the New Testament, to be used by such prisoner at proper seasons, and any minister of the Gospel disposed to aid in reforming the prisoners and instructing them in their moral and religious duties shall have access to them at seasonable times when not required to be employed in labor.

§ 1055. All prisoners confined only in order to secure their attendance as witnesses shall be under no other restriction than what is necessary to prevent their escape from prison. Every such prisoner shall be immediately liberated on his giving security for his appearance to testify as required by law.

§ 1056. All prisoners sentenced to imprisonment at hard labor shall be constantly employed, for the public benefit, on the public works or otherwise, as the chief sheriff, with the approval of the attorney-general, may think best.

§ 1057. The attorney-general is hereby empowered, in his discretion, to detail for labor on any public road, upon application to that purpose from any road supervisor, as many prisoners as he may deem necessary

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for such work; said prisoners to be under the care of their usual overseers, and subject to the road supervisor only as far as regards the mode of their employment.

§ 1058. When such prisoners can not be well employed in the performance of any public work, the chief sheriff, with the approval of the attorney-general, may let them out to labor for private individuals, upon such terms as he may deem proper; provided, always, that such prisoners shall be locked up within the prison every night.

§ 1059. Female prisoners shall be kept entirely separate from the male prisoners, and shall be employed in making mats, in sewing, in washing the clothes of the prisoners, and in such other suitable occupations as the chief sheriff shall direct.

§ 1060. The pay of prison officers shall be determined and regulated by the attorney-general.

§ 1061. Every person sentenced to imprisonment for life shall be considered as civilly dead, and the same disposition shall be made of his estate as if he had died on the day sentence was pronounced; and any last will and testament, or codicil, he may have made prior to that time, shall take effect in the same manner as if he had died on that day.

§ 1062. But no disposition of any estate, either by will or otherwise, after the arrest for the crime of which the prisoner was convicted, whether the sentence is for life or otherwise, shall have any advantage or preference over the claim of any person entitled to damages for a private injury committed by the criminal, unless such disposition was made for a valuable and equivalent consideration, to a person ignorant of the arrest.

§ 1063. Whenever a convict is condemned to imprisonment less than for life, any judge having probate powers may, upon due application, appoint a guardian to have the care and management of said convict's estate, real and personal, during the term of his imprisonment. The letters of guardianship shall be revoked by the pardon or discharge of the convict, but such revocation shall not invalidate legal acts done by the guardian.

§ 1064. Every guardian so appointed for any convict, shall pay all the just debts due from the convict out of his personal estate, if sufficient, and if not out of his real estate, upon obtaining license for the sale thereof from the judge; he shall also settle all accounts of said convict, and demand, sue for, and receive all debts due to him, and may, with the approbation of the judge, compound for the same and give a discharge to the debtor; and he shall appear for and represent his ward, in all legal suits and proceedings, unless when another person is appointed for that purpose.

§ 1065. Such guardian shall have all the rights and duties, as well as the responsibilities, respecting the management and disposal of the convict's estate, as appertain to the guardian of a minor, or insane person. He shall manage the estate frugally and without waste, and apply the profits thereof, so far as may be necessary, for the comfortable and suitable maintenance of the convict's family, if there be any, and if the profits shall be insufficient for that purpose, he may sell the real estate and apply the proceeds thereto, upon obtaining the license of the judge.

§ 1066. Such guardian may be removed, and another guardian appointed in his place, whenever the judge shall think there is just cause for removal.

§ 1067. Every such guardian shall have such compensation for his services as the judge before whom his accounts are settled shall con-

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sider just and proper, and he shall also be allowed the amount of his reasonable expenses.

§ 1068. All property given, or in any manner whatsoever accruing to a convict, shall vest in his guardian, if he be sentenced for a term of years, to be disposed of in like manner with his other property; or if he be sentenced for life, shall vest in his heirs.

§ 1069. Until a lunatic asylum is created by law, any lunatic or insane person, whose lunacy or insanity is established by the court of proper jurisdiction, may be committed to any prison, jail, or house of correction, there to be provided for and safely kept until lawfully discharged. The estate of such person shall in all cases be liable for the payment of his necessary expenses, and it shall be the duty of his guardian, or other legal representative, to make such payments, from time to time, as may be ordered by said court.

NOTE TO CHAPTER 73.

§§ 1048–1055 are C. L., §§ 206–213. §§ 1056–1059 are C. L., §§ 215–217. § 1060 is C. L., § 220. §§ 1061–1069 are C. L., §§ 222–230.

The entire chapter has been amended in accordance with the following chapter.

Cases in Hawaiian Reports: Re Apuna, 6 Haw., 738; Thurston *v.* Ross, 8 Haw., 144.

CHAPTER 74.

CARE AND CUSTODY OF PRISONERS.

§ 1070. From and after the passage of this chapter the care and custody of all prisoners detained in any prison of the Territory shall be transferred from the department of the interior to the department of the attorney-general, and shall be included in, and appertain exclusively to, the department of the attorney-general, except as hereinafter otherwise provided.

§ 1071. The attorney-general shall hereafter exercise all such authority, supervision, and control over the chief sheriff and his subordinates, in relation to the care and custody of prisoners, as has heretofore been vested by law in the minister of the interior, and the chief sheriff shall hereafter be responsible to the attorney-general in all matters appertaining to the care and custody of prisoners, in like manner as he has heretofore been responsible to the minister of the interior in respect thereof.

§ 1072. In all respects wherein the minister of the interior has heretofore by law been invested with any power of approval of the appointment of prison officers, or any discretion to regulate the discipline or the pay of such officers, or the discipline of prisoners, such rights of approval and discretion are hereby vested in the attorney-general.

§ 1073. The chief sheriff shall at all times, notwithstanding anything hereinbefore contained, hold all such prisoners as shall be confined under sentence of imprisonment at hard labor at the disposal of the superintendent of public works, to be emyloyed by said superintendent on the public works, or otherwise, as said superintendent under the law shall direct.

NOTE TO CHAPTER 74.

§§ 1070–1073 are S. L. 1890, Ch. 3.

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CHAPTER 75.

PRISON INSPECTORS.

§ 1074. The governor, by and with the advice and consent of the Sen ate, shall appoint three persons on the island of Oahu to be inspector of prisons, who shall constitute a board of prison inspectors, and who shall hold office for two years. Any inspector shall be eligible for reappointment.

§ 1075. In case any inspector shall die, resign, depart from the Territory to reside abroad, or become incapacitated to serve upon such board, the governor shall declare the office of such inspector vacant, and shall, with the advice and consent of the Senate, appoint some other person to fill such vacancy, and to serve for the remainder of the term of the inspector whose office has so become vacant.

§ 1076. All inspectors appointed under the provisions of this chapter shall serve without pay, but they may incur such reasonable expense for clerk hire, traveling expenses, or other incidentals as the attorney-general shall approve. All such expenses shall be paid from the appropriations for prisons or support of prisoners.

§ 1077. As soon as convenient after the appointment of each board of inspectors, they shall organize and appoint one of their number to be chairman of the board and another secretary. They shall hold a regular meeting once each month, and special meetings whenever called by any member of the board. They may adopt rules and regulations for their own guidance, and shall keep a record of their proceedings and doings in a proper book or books. A majority of the board shall constitute a quorum.

§ 1078. The books of record of each board of inspectors shall, at the expiration of the term of office of such board, be delivered to the attorney-general, who shall preserve the same in the archives of the department of the attorney-general.

§ 1079. Such inspectors, or a majority of them, shall visit Oahu prison once each month, and oftener if they deem it expedient; and any of them may visit said prison at any time. They, or any of them, with the approval of a majority of the board, may visit and inspect any prison or jail of the Territory at any time, and may have access to every part of such prisons or jails, and to the books, papers, records, and accounts of the same.

§ 1080. It shall be the duty of the board of inspectors to supervise the discipline and government of the Oahu prison, and, in their discretion, from time to time provide rules and regulations, not contrary to law, for any or all of the prisons and jails of the Territory. In performing these duties they shall consult with the chief sheriff of the Territory and the attorney-general upon all important matters, but the decision of a majority of the board shall control.

§ 1081. It shall be the duty of the board of inspectors, on consultation with the jailor, to prescribe the punishment to be inflicted upon prisoners for the breach of prison rules or other misconduct. They shall in like manner decide who are entitled to the commutation provided by law for good behavior, and who shall be deprived of such commutation in whole or in part. They shall in like manner also have the power to restore, in whole or in part, to any prisoner the commutation which such prisoner shall have lost.

§ 1082. The board of inspectors shall seek to improve the discipline of the prison and the condition of the prisoners, and extend all reason-

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able inducements not contrary to law for good behavior. They may, in their discretion, classify the prisoners, designating the grade to which each shall belong; the privileges, not inconsistent with the law, which may be granted them, and the garb which they shall wear.

§ 1083. The board of inspectors shall, in the months of January and July of each year, present to the attorney-general a report of the condition of Oahu prison and the prisoners there confined, and of the doings of the board during the previous six months, and the condition of all other prisons and jails and prisoners of the Territory so far as they have information relating to them. They shall submit with such report a copy of all rules and regulations which they have made, amended, or rescinded during such period. They may also add any information or suggestions they deem advisable. Such reports shall be signed by at least two of the members of the board of inspectors, and be published in the English and Hawaiian languages in suitable weekly newspapers in Honolulu. They shall also present a report to the legislature at each regular session of the same, making such suggestions and recommending such legislation relating to the prisons and prisoners as they deem expedient.

NOTE TO CHAPTER 75

§§ 1074–1083 are S. L. 1888, ch. 7.

CHAPTER 76.

COMMUTATION OF PUNISHMENT.

§ 1084. Every prisoner confined in any prison or jail of the Territory, under sentence of hard labor imposed by any court of the Territory, may, for continued good behavior or meritorious conduct while serving out his sentence, be allowed the following deductions for each three months of his term, that is to say:

First three months, seven days.

Second three months, eight days.

Third three months, nine days.

Fourth three months, ten days, and so on at the same increasing rate of one day additional for each succeeding three months.

§ 1085. Any prisoner sentenced to pay a fine and who is confined at hard labor because of his failure to pay his fine, according to law, may be allowed a commutation at the rate provided for prisoners sentenced to hard labor, such commutation to be allowed for the time actually served in prison.

§ 1086. Any prisoner may, for misconduct or other sufficient cause before his discharge, forfeit the whole or a part of the commutation which he has been allowed, and, for subsequent good conduct, meritorious behavior or other sufficient reasons, the whole or a part of the commutation so forfeited may be again allowed to such prisoner.

§ 1087. The granting, withholding, forfeiting, and restoring of the commutation provided by this chapter shall be discretionary with the board of prison inspectors.

As to prisoners confined in the prisons of the Territory other than Oahu Prison, the board of prison inspectors may delegate to such prison officers or other persons as they deem best the power to grant, withhold, forfeit, and restore commutation of prisoners confined in such prisons, and such power to revoke at their discretion.

§ 1088. At some suitable time during the months of January, April, July, and October of each year the board of prison inspectors shall

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cause each prisoner to be informed of the commutation granted, withheld, forfeited, or restored to, from or by him, during the previous three months, giving the reasons for such granting, withholding, forfeiting, or restoring of the commutation. And the said inspectors may, in their discretion, cause the standing of each prisoner to be made known to any or all of the other prisoners in the prison.

§ 1089. A record shall be kept and preserved in a suitable book or books at each prison, to be styled the commutation book, in which shall be entered the name of every prisoner under sentence who is confined in such prison. In such book shall be entered upon a separate page the name of each prisoner, under which shall be entered a careful record of his conduct and of the commutation which has been granted, withheld, forfeited, or restored to from or by him, with reason or reasons for such granting, withholding, forfeiting, or restoring of the commutation. Such records or true copies of them shall be shown to the governor when considering petitions for executive clemency.

§ 1090. The commutation provided by this chapter may be allowed to prisoners sentenced before this chapter shall become law, but shall be allowed only from the date of its approval. The days commuted to any prisoner before the date of the approval of this chapter, under the commutation heretofore allowed by law, shall be noted upon the record of such prisoner and added to the commutation allowed him under the provisions of this chapter.

NOTE TO CHAPTER 76.

§§ 1084–1090 are S. L. 1888, ch. 9.

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TITLE VII.

LEGISLATIVE ASSEMBLY.

CHAPTER 77.

ELECTIONS.

CAUSES OF VACATING A SEAT.

§1091. The seat of any elective member of the legislature shall become vacant whenever such member—

Shall die; or,

Shall resign; or,

Shall be convicted of any offense, conviction for which would have disqualified him from being elected; or,

Shall be convicted of an election fraud, as the same is now or hereafter may be defined by law, or of a violation of any of the provisions of the said rules and regulations which, by the provisions hereof or by law, entail a forfeiture of such seat; or,

Be guilty of gross misconduct or neglect of the duty for which he was elected, or of continued unexcused absence form the meetings of the legislature, whereof the legislature alone shall judge; or,

Shall fail to possess or comply with any of the requirements necessary for an elective member of the legislature; or,

If any agent, or assistant, or member of a committee having charge of or assisting in the election of any such member shall be convicted of an election fraud connected with the election of such member, as the same is now or hereafter may be defined by law; provided such fraud has been perpetrated with the knowledge or connivance of the candidate.

CONTESTED ELECTIONS—PROCEEDINGS.

§ 1092. Any candidate directly interested, or any thirty duly qualified voters of any election district, may file a petition in the supreme court, setting forth any cause or causes why an election shall be declared void, or a seat in the legislature vacant, or the decision of any board of inspectors or the chief sheriff, or any sheriff, reversed or changed.

If such petition shall be based upon any act alleged to have been done, or omitted to have been done, in connection with any election, it shall be filed in the office of the clerk of the supreme court within thirty days following the election proposed to be contested. Such petition shall be accompanied by a deposit of such costs as may be prescribed by the court.

§ 1093. A notice of not less than fourteen days shall be given to the inspectors of the election district in which such contest is made, and to the candidate who shall have been returned or whose seat is contested,

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and to any others whose rights or interests are particularly affected, who shall be designated by the court.

Besides such notice, a written or printed notice of the time and place of hearing such contest shall be posted in the district, in some public and frequented place, or published in some newspaper circulated in the district, for not less than ten days prior to such hearing.

§ 1094. No person who has voted at any election shall, in any legal proceeding, be required to state for whom he voted.

§ 1095. All petitions contesting the validity of any election, or to vacate a seat in the legislature, shall be heard by the court as soon as reasonably may be, whether in term time or vacation, at such time or times, place or places, as the court may direct.

§ 1096. At the hearing the court shall cause the evidence to be reduced to writing in full or sufficiently to ascertain all the facts involved, and shall thereupon give judgment, stating all findings of facts and the law thereupon, which shall then be transmitted in full to the governor. If such findings shall be that the election was invalid, or the seat vacant, a new election shall at once be ordered by the governor, but in case the said court shall decide which of the candidates have been elected, the governor shall forthwith sign and transmit to said candidate a certificate of election.

§ 1097. Such award as to costs in such proceedings shall be made as the court shall determine. Costs shall be the same as in trials in circuit court in chambers.

§ 1098. The decision of the court concerning any question properly involved in any such petition shall be final and binding upon all parties.

§ 1099. The course of proceedings shall be subject to the rules of the supreme court. The court may make such special rules concerning contested-election cases and petitions to vacate a seat in the legislature as it may find necessary or proper.

The court shall have like powers as in trials at a regular term of the court, concerning compelling the attendance of witnesses, punishing contempts, and all matters pertaining to such hearing.

§ 1100. Every record made in pursuance of law by a board of registration of voters, or a board of inspectors of election, shall be *prima facie* evidence of the facts therein set forth, and shall be received as such in any court or tribunal in which the same is offered as evidence.

§ 1101. Every member of the boards of registration of voters is hereby authorized to administer oaths in all cases in which oaths are by law authorized.

[§ 1102.]

NOTE TO CHAPTER 77.

§§ 1091–1100 are L. R. act 8, except §1096, which is S. L. 1896, act 11. §1101 is L. R. act 1.

Penalties for violations of this chapter, see Penal Laws, §§1490–1495.

Cases in Hawaiian Reports: Holstein v. Young, 10 Haw.. 216; R. v. Gay, 8 Haw., 468; Re Ross, 8 Haw., 483; Mattoon v. Barnard, 8 Haw., 732; Re Kapahu, 8 Haw., 735; Re election, 8 Haw., 592.

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TITLE VIII.

JUDICIARY DEPARTMENT.

CHAPTER 78.

GENERAL PROVISIONS.

§ 1103. There shall be a department of government to be styled the judiciary department, which shall be presided over by the chief justice, whose duty it shall be to make a report to the legislature at each regular session thereof of the business of the said department and of the administration of justice throughout the Territory.

§ 1104. The said department and the several judges and other judicial officers thereof shall, in all respects, be independent of both the executive and legislative departments of government. The governor shall have no power to interfere with, alter, or overrule any order, writ, judgment, or decision of any court, judge, or other judicial officer: Provided, however, That nothing herein contained shall be construed to prevent the governor from granting reprieves and pardons, after conviction, for all offenses except in cases of impeachment.

§ 1105. The judicial power of the Territory is vested in one supreme court, and in such inferior courts as the legislature may, from time to time, establish.

§ 1106. No justice of the supreme court nor any circuit judge shall exercise the profession or employment of counsel or attorney at law or be engaged in the practice of law.

§ 1107. No judge of any other court shall be employed nor allowed to appear as counsel or attorney before any court in any suit which shall have been previously tried before him.

§ 1108. All questions of law arising in any cause shall be decided by the court or judge before whom the matter is pending; and the instructions of such court or judge in relation to the law shall be binding upon the jury, if any be empannelled in the cause.

COMMON LAW.

§ 1109. The common law of England, as ascertained by English and American decisions, is hereby declared to be the common law of the Hawaiian Islands in all cases, except as otherwise expressly provided by the Constitution and laws of the United States, or by Hawaiian laws, or fixed by Hawaiian judicial precedent, or established by Hawaiian national usage: Provided, however, That no person shall be subject to criminal proceedings except as provided by the Hawaiian or United States laws.

§ 1110. The several courts of record shall have power to decide for themselves the constitutionality and binding effect of any law, ordinance, order, or decree, enacted or put forth by the governor, the legislature, or any executive board or bureau of the Government.

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§ 1111. The several courts, in their decisions, shall have due regard to vested rights.

§ 1112. The several courts of record in term time, and the respective justices thereof at chambers, shall have power summarily to commit for trial any party appearing to the satisfaction of such court or justice to have committed perjury in any trial or proceeding had before the same.

§ 1113. Wherever, by the provisions of any law of this Territory, any act is or shall be required to be performed by the chief justice of the supreme court, such act may (unless otherwise expressly provided) be performed during the absence, illness, or other inability or disability of the chief justice, by any associate justice of said courts.

JUDICIAL DISTRICTS.

§ 1114. For judicial purposes the lands known as the Ahupuaa of Olaa and the Ahupuaa of Keaau, situate in the district of Puna, island of Hawaii, are hereby transferred to and shall hereafter form a part of the judicial district of South Hilo, island of Hawaii.

§ 1115. That the district of Hana, island of Maui shall, for judicial purposes, be divided as follows:

The first division to be called the judicial district of Hana, and to include Koolau; and the second division to be called the judicial district of Kipahulu, and to include Kaupo and Kahikinui.

§ 1116. Two district magistrates shall be appointed; one for each of the divisions provided for by section 1115 in the district of Hana, and shall each receive as salary for their services such sums of money as may from time to time be appropriated by the legislature.

NOTE TO CHAPTER 78.

§§ 1103–1104 are S. L. 1892, ch. 57, §§ 1–2. § 1105 is C. L., § 817. § 1106 is S. L. 1892, ch. 76. § 1107 is C. L., § 821. §§ 1108-1111 are S. L. 1892, ch. 57, §§ 4–7. § 1108 is also C. L., § 822. § 1111 is also C. L., § 825. § 1112 is C. L., § 826. § 1113 is S. L. 1892, ch. 76. § 1114 is P. C. act 86. §§ 1115–1116 are S. L. 1890, ch. 58.

Judicial districts, see § 896.

Cases in Hawaiian reports: Gay v. Mendonca, 7 Haw., 297; McGrew v. McGrew, 9 Haw., 487; Mossman v. Haw. Govt., 10 Haw., 434; Henrique v. Paris, 10 Haw., 408.

CHAPTER 79.

DISTRICT COURTS.

§ 1117. There shall be appointed one or more district magistrates for each judicial district of the Territory. Such magistrates shall be commissioned by the governor. Each such magistrate shall reside in the district for which he is commissioned.

§ 1118. The district magistrates shall hold office for the term of two years from the date of their respective commissions: Provided, however, That any district magistrate may be removed from office for cause by the supreme court, or by the circuit judge of the judicial circuit in which the district of the magistrate complained of is situated.

§ 1119. The district courts shall have original and exclusive jurisdiction of all civil actions, except as hereinafter otherwise provided, where the debt, amount, or damages, or the value of the property claimed shall not exceed fifty dollars; and concurrent jurisdiction in all civil actions, except as aforesaid, where the debt, amount, or damages, or

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the value of the property claimed shall not exceed three hundred dollars; and shall have original jurisdiction in all statutory proceedings as conferred by law upon police and district courts, or which may hereafter be placed by law within the jurisdiction of district courts, and to try and determine the same, subject to appeal according to law: Provided, however, That such courts shall not have cognizance of real actions, nor actions in which the title to real estate shall come in question, nor actions for libel, slander, defamation of character, malicious prosecution, false imprisonment, breach of promise of marriage, or seduction, nor of any civil matter required by law to be tried by a jury, nor shall they have power to appoint referees in any cause.

§ 1120. The district magistrates shall have power to administer oaths, to perpetuate testimony under commissions issued to them from other courts, and to issue commissions for the perpetuation of testimony to be used in controversies pending before them, to grant continuances of proceedings before them, to subpœna and compel the attendance of witnesses within their respective districts, to enforce judgment, and to punish contempts according to law.

§ 1121. The district magistrates shall in all cases preserve in written detail the minutes and proceedings of their trials, transactions, and judgments, with the substance of the testimony and the facts upon which their decisions rest.

CUSTODY OF DOCKETS.

§ 1122. From and after the passage of this chapter it shall be the duty of the several district magistrates, except the district magistrates of Honolulu, to transmit forthwith to the clerk of the circuit court of the circuit in which their respective districts are situated all dockets and record books required by them to be kept by section 1121, except those in current use and not completed, and from time to time thereafter to transmit them as aforesaid whenever completed.

§ 1123. Every failure on the part of any such district magistrate to comply with this law, not explained to the satisfaction of a circuit judge of the circuit within which said district magistrate resides, shall be punishable summarily, on the complaint of the clerk of the court of said circuit, by said circuit judge, by forfeiture of one month's salary of said district magistrate.

§ 1124. The clerk of the judiciary department is hereby charged with the duty of directing the method and details of transferring such dockets and record books, and with the custody and preservation of the same in some appropriate place within the respective circuits.

§ 1125. The expenses incurred in the transfer of such dockets and record books, and of the custody thereof, may be charged to the appropriation for expenses of supreme and circuit courts.

§ 1126. Whenever requested, the clerk of any circuit court, on being paid the sum of two dollars and a half as costs, shall furnish a copy of the minutes, proceedings, judgments, and testimony of any designated case from such dockets and record books in his custody, which, when duly authenticated by said clerk under the seal of the court, shall be admitted in evidence in any court of the Territory in like manner and effect as if the original were produced.

LIABILITIES AND DUTIES.

§ 1127. The district magistrate shall be liable to writs of error, *mandamus*, prohibition, injunction, and *certiorari*, according to law.

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§ 1128. In case of the temporary disqualification of any district magistrate from any cause, some other person may be appointed by the circuit judge of the circuit in which such magistrate is located, to perform the duties of the office for the time being.

§ 1129. It shall be the duty of each district magistrate, during the first month of each quarter of the year, to report to the judge of the circuit court of the circuit in which such district magistrate is located the amount and kind of official business done by him during the preceding quarter—the number of persons prosecuted, the crimes and misdemeanors for which such prosecutions were had, and the results thereof, and the punishments awarded against any person convicted thereon, as well as the number, kind, and results of civil proceedings had before him, and the names of the parties thereto.

§ 1130. The district magistrates shall be paid for their services such salary as the legislature shall appropriate for them respectively.

ACTING DISTRICT MAGISTRATES.

§ 1131. In case of the illness, temporary absence of any district magistrate from the district for which he is appointed, or when for any cause any district magistrate is disqualified to hear and determine any case which would by law come under his jurisdiction, it shall be lawful to appoint some other person to perform the duties of such district magistrate, who shall be called an acting district magistrate, and shall not exercise any judicial functions except in the contingencies above mentioned.

[§ 1132.]

§ 1133. Sections 1131–1134 shall not be construed to repeal section 1158, but it shall be optional for parties bringing suits, either civil or criminal, to take them before such acting district magistrate or to the circuit judge, as the case may be.

§ 1134. The compensation of such acting district magistrate shall be such as may be agreed upon between him and the district magistrate for whom he may act, and shall be paid out of the appropriation for salary of such district magistrate.

NOTE TO CHAPTER 79.

§ 1117 is S. L. 1892, ch. 76. §§ 1118–1121 are S. L. 1892, ch. 57, §§ 9–10, §§ 12–13. §§ 1122–1126 are S. L. 1896, act 6. §§ 1127–1130 are S. L. 1892, ch. 57, §§ 25–28. §§ 1131–1134 are S. L. 1892, ch. 20.

Criminal jurisdiction of district courts, see Penal Laws, ch. 52.

Cases in Hawaiian Reports: Kualana v. Yong Young, 9 Haw., 226; Ward v. Kamanoulu, 9 Haw., 620; Mao v. Apa, 9 Haw., 637; Gonsalves v. Pakiko, 10 Haw., 407; Nakamura v. Haalilio, 6 Haw., 658; Re Piipiilani, 7 Haw., 103.

CHAPTER 80.

CIRCUIT COURTS AND CIRCUIT JUDGES AT CHAMBERS.

§ 1135. The Territory of Hawaii is divided into five judicial circuits, as follows:

The first judicial circuit is the island of Oahu and all other islands belonging to the Territory of Hawaii not hereinafter mentioned.

The second judicial circuit includes the islands of Maui, Molokai, Lanai, Kahoolawe, and Molokini.

The third judicial circuit includes the districts of Kohala, Kona, and Kau, of the island of Hawaii.

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The fourth judicial circuit includes the districts of Hamakua, Hilo, and Puna, of the island of Hawaii.

The fifth judicial circuit includes the islands of Kauai and Niihau.

§ 1136. There shall be established in each of the judicial circuits of the Territory of Hawaii a court with the powers and under the conditions hereinafter set forth, which shall be styled the circuit court of such circuit (as, for instance, the circuit court of the third circuit).

§ 1137. The circuit court of the first circuit shall consist of two judges, who shall be styled first and second judges, respectively, of the circuit court of the first circuit, either of whom may hold the court.

The circuit courts of the second, third, fourth, and fifth circuits shall consist, each, of one judge, who shall be styled judge of the circuit court of the circuit in which he is located (as, for instance, judge of the circuit court of the third circuit).

Every judge of a circuit court shall reside in the circuit for which he is appointed.

§ 1138. The terms of the respective circuit courts shall be held as follows:

In the first circuit at Honolulu, on the first Mondays of February, May, August, and November.

In the second circuit, at Wailuku, on the island of Maui, on the first Wednesday of June, and at Lahaina on the first Wednesday of December.

In the third circuit, at Kailua, in the district of North Kona, on the first Wednesday of April, and in the district of North Kohala on the first Wednesday of October.

In the fourth circuit, at the town of Hilo, in the district of Hilo, on the first Wednesday of January, and at Honokaa, in the district of Hamakua, on the first Wednesday of July.

In the fifth circuit, at Lihue, on the island of Kauai, on the first Wednesdays of March and September.

§ 1139. Any circuit judge may, with the written approval of the chief justice, appoint special terms of his court at other times whenever he shall deem it essential to the promotion of justice.

§ 1140. The terms of the circuit courts may be continued and held from the opening thereof, respectively, until and including the twenty-fourth day thereafter, Sundays and legal holidays excepted. Provided, however, that any such term may be extended by the presiding judge for not more than twelve days after the expiration of the said twenty-fourth day.

§ 1141. The judges of the circuit courts shall hold office for six years from the date of their appointment, subject to removal upon impeachment, and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office.

§ 1142. The seals of the several circuit courts shall be those already devised and now in use by said courts.

§ 1143. Judges of the circuit courts shall be entitled to receive yearly salaries at the following rates, payable monthly from the treasury, namely: The judges of the circuit court of the first circuit, four thousand dollars each; the judges of the second and fifth circuits, two thousand five hundred dollars each; the judge of the third and fourth circuit courts, three thousand dollars.

§ 1144. The several circuit courts shall have jurisdiction, but subject to appeal and exceptions to the supreme court, according to law, as follows:

First. Of all offenses and crimes cognizable under the authority of

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the Hawaiian laws committed within their respective circuits, or transferred to them for trial by change of venue from some other circuit court.

Second. Of all suits for penalties and forfeitures incurred under the Hawaiian laws.

Third. Of causes, civil or criminal, which may properly come before them on appeal from any other court according to law.

Fourth. Of all civil causes at law, except as otherwise expressly provided.

[*Fifth.*]

Sixth. Of all suits brought by ambassadors and other public ministers, or in which a consul or vice-consul is a party.

Seventh. Of all actions against the government of Hawaii, and such jurisdiction shall be exclusive.

Eighth. Of all proceedings for divorce, separation, or annulment of marriage, which shall be tried by the presiding justice without the intervention of a jury.

Ninth. Any circuit court may, upon satisfactory proof that a fair and impartial trial can not be had in any case pending in such court, and after the parties thereto shall have had opportunity to be heard, change the venue to some other circuit court and order the record to be transferred thereto: Provided, however, That any circuit court may in its discretion, upon the consent of all the parties to any civil cause pending in such court, change the venue to some other circuit court and order the record to be transferred thereto.

CIRCUIT JUDGES IN CHAMBERS.

§ 1145. The judges of the several circuit courts shall have power in chambers within their respective jurisdictions, but subject to appeal to the circuit and supreme courts according to law, as follows:

[*First.*]

Second. To hear and determine all matters in equity.

Third. To hear and determine all matters in bankruptcy.

Fourth. To grant probate of wills, to appoint administrators and guardians, and to compel executors, administrators, and guardians to perform their respective trusts and to account in all respects for the discharge of their official duties; to remove any executor, administrator, or guardian; to determine the heirs at law of deceased persons, and to decree the distribution of intestate estates.

Fifth. To admeasure dower and partition real estate; when the dower in real estate can not be set apart without great injury to the owners, the judge may ascertain the value of such dower in money and order the same to be paid on such terms as shall be just and reasonable; when the partition of real estate can not be made without great prejudice to the parties, the judge may order a sale of the premises and divide the proceeds.

Sixth. To legalize the adoption of children and to decree the affiliation of bastards.

Seventh. To select and impanel, subject to challenge for cause by either party, a special jury of inquiry of idiocy, lunacy, or *de ventre inspiciendo*, or in any other matter to be tried before any of said judges in chambers; and they shall receive and act upon the verdict of such jury as equity and good conscience require.

Eighth. To issue writs of *habeas corpus* according to law.

Ninth. To issue writs of error, *certiorari*, *mandamus ne exeat regno*, prohibition, and *quo warranto*, and all other writs and processes, to

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courts of inferior jurisdiction, to corporations and individuals, that shall be necessary to the furtherance of justice and the regular execution of the laws.

Tenth. To enlarge on bail persons rightfully confined in all bailable cases.

Eleventh. To require either the plaintiff or defendant, upon the application of the opposite party, to give security for costs in any civil cause, upon such terms and conditions as the judge shall deem just.

Twelfth. To issue warrants for the apprehension, in any part of the Territory, of any person accused under oath of a crime or misdemeanor committed within his jurisdiction, and to examine and commit such person to prison according to law for trial.

§ 1146. Provided, however, That the powers and jurisdiction of circuit courts and of circuit judges in chambers relating to causes of a civil nature, as hereinbefore defined, shall be limited as follows:

First. Causes described in the second division of section 1144 shall be triable only in the circuit where it is alleged the penalty or forfeiture was incurred.

Second. Actions of ejectment, actions to quiet title in real property, and actions of trespass *quare clausum fregit* shall be triable only in the circuit in which the real property in question is situated. And actions for tort shall be triable only in the circuit in which the alleged cause of action arose.

Third. Causes of divorce, separation, or nullity of marriage, which shall be triable only in the circuit where the parties last lived together as man and wife.

Fourth. Causes of bankruptcy, which shall be heard only in the circuit where the alleged bankrupt has had his business headquarters, or in the first circuit.

Fifth. Proceedings for the probate of wills and for the appointment of administrators and trustees of the estates of deceased persons, for the admeasurement of dower, and for all matters relating to the administration and settlement of estates of deceased persons, which shall be brought only in the circuit where the deceased had his last residence: Provided, That if the deceased died abroad the proceedings may be brought in the first circuit.

Sixth. Proceedings for the appointment of guardians and for all matters concerning the relation of guardian and ward, which shall be brought in the circuit where the person or a majority of the persons reside, in behalf of whom such proceedings are begun.

Seventh. Proceedings for the partition of real estate, which shall be brought only in the circuit where the real estate, partition of which is prayed for, is situated: Provided, That if such real estate lies in more than one circuit the proceedings may be had in either circuit in which the same is situated.

Eighth. The power of legalizing the adoption of children, and decreeing the affiliation of bastards shall be in the judge of the circuit where the parents of the child in question reside.

Ninth. The power of issuing writs, as provided in the ninth division of section 1145 shall be in the judge of the circuit in which the alleged occasion for relief by any such writ shall arise: Provided, however, That in case any such writ shall be necessary in the prosecution or furtherance of any cause or proceeding already begun or pending before any circuit court or judge, the power of issuing such writ shall be in the court or judge before whom such cause or proceeding has been begun or is pending, even though the alleged occasion for relief shall have arisen in another circuit.

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[§ 1147.]

§ 1148. Matters in the jurisdiction of judges of the circuit courts in chambers, as set forth in section 1145, shall be determined by the judge having jurisdiction thereof, without the intervention of a jury, except as provided in the seventh division of said section 1145.

§ 1149. A majority of the circuit judges shall have power from time to time to make rules for regulating the practice and conducting the business of the circuit courts in all matters not expressly provided by law, and thereafter to revise such rules at their discretion, but in no case shall have power to impose costs not expressly authorized by statute.

§ 1150. The several circuit courts shall have power to compel the attendance of parties and witnesses from any part of the Territory; to compel the production of books, papers, and accounts; to make and award all such judgments, decrees, orders, and mandates; to issue all such executions and other processes; and to do all such other acts, and to take all other steps necessary to carry into full effect all the powers which are or may be given to them by the laws of the Territory, or which may be necessary for the promotion of justice in matters pending before them.

§ 1151. The several circuit judges shall have power to administer oaths, and to compel the attendance of parties and witnesses from any part of the Territory, and the production of books, papers, and accounts; to make and award all such judgments, decrees, orders, and mandates; to issue all such executions and other processes, and to take all other steps necessary for the promotion of justice in matters pending before them in chambers, and to take all other steps necessary to carry into full effect all the powers which are or may be given them by the laws of the Territory, in like manner as the circuit courts may do in term time.

§ 1152. Whenever a cause shall be at issue in a circuit court, and it shall appear that the trial of the same will require the examination of a long or complicated account on either side, such court may, upon the application of either party, or without such application, order such cause to be referred to three impartial and competent persons. Each party shall have the right to name one of the referees, and the court shall appoint the third, and in case either party shall fail to nominate, the court shall do so for him.

§ 1153. Whenever, and as often as in the course of any probate or other judicial proceeding, it shall be necessary to make any advertisement of such proceeding, or of any order, judgment, or decree therein, the party or his attorney, at whose instance such proceedings shall be brought, or such order, judgment, or decree shall be entered or rendered, shall have the privilege of naming the newspaper or newspapers in which such advertisements shall be published: Provided, however, That the newspaper or newspapers so named by such party or his attorney, shall be published in the language or languages (in whole or in part), in which such advertisement is ordered or obliged to be published; and it shall be the duty of the clerk and judge of the court in which such proceeding shall be pending to have such advertisement published in the newspaper or newspapers so nominated by such party or his attorney: And further provided, That only such papers as shall have been satisfactorily shown to the supreme court to be newspapers of general circulation, and suitable for such purpose, and shall have been so declared by the court, shall be eligible for selection to receive such advertisements.

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SAFE CUSTODY OF WILLS AND TESTAMENTARY PAPERS.

§ 1154. Whenever any will or testamentary paper shall be admitted to probate by any circuit judge, it shall be the duty of such circuit judge, within one month after such will or testamentary paper shall have been so admitted to probate, to forward the same to the clerk of the supreme court, to be by him filed and preserved in the office of such court.

§ 1155. It shall be the duty of all circuit judges and the clerks of the several circuit courts, as soon as conveniently may be after the passage of sections 1154–1156, to forward all original wills and testamentary papers which may be in their custody and theretofore admitted to probate, to the said clerk of the supreme court, to be by him filed and preserved as aforesaid.

§ 1156. The several circuit judges and clerks of the circuit courts shall retain copies of all wills and testamentary papers so forwarded by them under the provisions of sections 1154–1156.

REPORTS.

§ 1157. It shall be the duty of the first judge of the first circuit, and of the several judges of the other circuits, during the month of January of each year, to report to the chief justice the amount and kind of official business done in their courts, and by them in chambers, respectively, and by the inferior courts of their respective circuits, during the preceding year, the number of persons prosecuted, the crimes and misdemeanors for which such prosecutions were had, and the results thereof, and the punishments awarded any person convicted thereon, as well as the number, kind, and results of civil proceedings had in their respective circuits, and the names of the parties thereto.

DISQUALIFICATION AND ABSENCE.

§ 1158. When for any cause any district magistrate is legally disqualified to hear and determine any case, civil or criminal, which would by law come under his jurisdiction, the same may be brought by direct suit or complaint, before any circuit judge of the circuit in which such district magistrate holds office, to be heard and determined by such circuit judge, in like manner as if it had been brought before him by appeal. The same costs shall be charged in such case as would have been charged if the suit had been brought before the district magistrate.

§ 1159. If any circuit judge, other than the circuit judges of the first circuit, shall be disqualified from sitting in any cause pending before his court, or before him in chambers, or shall be unable to attend the trial of such cause, or of any term of his court, from sickness, accident, absence, or other reason, the circuit judge of some other circuit who shall be thereto authorized by the written request of the chief justice, may preside at the trial of such cause, or at such term of the said court.

§ 1159A. In case of the temporary disability or absence from the country of any circuit judge, some other person may be appointed by the governor to perform the duties of the office while such disability or absence continues. The commission of every such person so appointed may be revoked at any time by the governor at his discretion. The provisions of this section shall not be construed to conflict with the provisions of section 1159.

§ 1160. If the judge of any circuit court, or any other circuit judge authorized to preside at such court as hereinbefore provided, shall fail

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to attend such circuit court at the time at which it is appointed to be held, the sheriff, or some deputy sheriff, shall open the court and adjourn the same, from time to time, until the attendance of one of the said circuit judges, or until the time for holding such circuit court has expired; but no such adjournment shall be for a longer period than three days, unless there shall be on file with the clerk at the time of such adjournment a written order by the judge of such court fixing the day to which the court shall stand adjourned.

§ 1161. If no circuit judge shall attend any circuit court at the time which it is appointed to be holden, the sheriff may open court and adjourn the same from day to day, and from time to time, until the attendance of some circuit judge; but no such adjournment shall be for a longer time than three days, unless there shall be produced and recorded by the clerk, at the time of such adjournment, a written order by the chief justice of the supreme court fixing the day to which the said circuit court shall stand adjourned.

NOTE TO CHAPTER 80.

§§ 1135–1137 are S. L. 1892, ch. 57, §§ 29–30. §§ 1138 is S. L. 1895, act 6. §§ 1139, 1141 are S. L. 1892, ch 57, §§ 32–34. § 1140 is S. L. 1898, act 2. § 1142 is C. L. § 875. §§ 1143–1145, 1148–1152 are S. L. 1892, ch. 57, §§ 35–44. § 1146 is S. L. 1898, act 56. § 1153 is S. L. 1892, ch. 36. §§ 1154–1156 are S. L. 1880, ch. 16, C. L. p. 254. § 1157 is S. L. 1892, ch. 57, § 48. § 1158 is C. L. § 937. §§ 1159–1160 are S. L. 1892, ch. 57, §§ 45–46. § 1159A is S. L. 1898, act 67. § 1161 is S. L. 1868, C. L. p. 249.

Suits against the Hawaiian Government (§ 1144 par. 7), see §§ 1530-1538.

Cases in Hawaiian reports: Govt. v. Mossman, 9 Haw., 361; Re Matsuji, 9 Haw., 402; Re Aldrich, 9 Haw., 470; Govt. v. Tokiyi, 9 Haw., 551; Wailuku Co. v. Cornwell, 10 Haw., 476; Kona Coffee Co. v. Circuit Court, 10 Haw., 571; Byrne v. Allen, 10 Haw., 668.

CHAPTER 81.

THE SUPREME COURT.

§ 1162. The supreme court shall consist of a chief justice and two associate justices; provided, however, that the existing justices of the supreme court shall exercise their functions as justices of the supreme court under the provisions of this chapter according to their constitutional tenure of office.

§ 1163. The supreme court shall have the general superintendence of all courts of inferior jurisdiction to prevent and correct errors and abuses therein where no other remedy is expressly provided by law.

§ 1164. The supreme court shall have appellate jurisdiction to hear and determine all questions of law, or of mixed law and fact, which shall be properly brought before it on exceptions, error, or appeal duly perfected from any other court, judge, magistrate, or tribunal, according to law, or by reservation of any circuit court or judge; and original jurisdiction in all questions arising under writs of error, *certiorari*, *mandamus*, prohibition, and injunction directed to circuit courts, or to circuit judges, or to magistrates, or other judicial tribunals, and returnable before the supreme court. The supreme court and the several justices thereof in aid of the appellate jurisdiction of the court shall have power to issue writs of *mandamus*, *certiorari*, prohibition, and *habeas corpus*, and all other writs necessary or proper to the complete exercise of the appellate jurisdiction of the court, and each of the justices shall have original jurisdiction and power to issue writs of *habeas corpus* and may make such writs returnable before himself or the supreme court or before any circuit court or any judge thereof.

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§ 1165. The supreme court shall have the power to compel the attendance of witnesses and the production of books, papers, and accounts; to make and award all such judgments, decrees, orders, and mandates; to issue all such executions and other processes, and to do all such other acts and take such other steps as may be necessary to carry into full effect the powers which are or shall be given to it by law, or for the promotion of justice in matters pending before it.

§ 1166. The several justices of the supreme court shall have the power to administer oaths, to issue writs of error to any inferior court of justice according to law, to issue writs of *certiorari* and *mandamus* to circuit courts and circuit judges, and to issue writs of prohibition and injunction to circuit courts and circuit judges and to parties litigant before such circuit courts and circuit judges; all of which writs shall be returnable before the supreme court.

§ 1167. The supreme court shall hold four terms in each year, beginning on the third Mondays of March, June, September, and December; it may, however, hold special terms at other times whenever it shall be necessary to the promotion of justice; provided that it shall be deemed to be continuously in session, except on Sundays and legal holidays, for the issue and return of such writs and the hearing thereof, as are mentioned in section 1166; and such writs, should necessity require, may be issued on a Sunday or legal holiday.

§ 1168. The terms of the supreme court shall be held in Honolulu, island of Oahu; provided that the chief justice may, in case of war, pestilence or other public calamity, or the danger thereof, appoint a different place for the sitting of the court, *pro tempore*. The terms of the supreme court may be continued and held from the opening thereof, respectively, until and including the eighteenth day thereafter, Sundays and legal holidays excepted.

§ 1169. When neither of the justices is present at the time and place appointed for holding the court, whether at the beginning of a term or at any adjournment thereof, it shall be the duty of the clerk of said court to adjourn the same from day to day, until one of the justices shall attend, or until an order in writing shall be received from one of them respecting such adjournment.

§ 1170. Parties to causes pending before the supreme court shall be entitled to hearing before all of the justices thereof, and may not be compelled to go to trial before less than the full number thereof; provided, however, that if any justice of the supreme court shall be disqualified from sitting in any cause pending before the supreme court, or shall be unable to attend from sickness, accident, absence, or any other reason, his place for the trial and determination of such cause shall be filled by one of the circuit judges who has had no connection with the said cause, either as counsel or in his official capacity, or by any competent and disinterested member of the bar of the supreme court thereunto authorized by the written request of the remaining justices or justice. Any decision, judgment, order of the supreme court, decree made or process issued by such court so constituted, shall have the same force and effect as if it was made or issued by the supreme court sitting in full bench.

§ 1171. Upon all questions arising under the exercise of the jurisdiction of the supreme court, when argument of counsel may be desired or intended by the parties, or may be requested by the court, the court may order such argument to be had at any of the said terms. And after the argument of any cause, or when the same is submitted on briefs, if the court is of opinion that a certain point or legal proposi-

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tion is involved which is material to the decision of the case and which has not been raised or argued by counsel on either side, the case shall not be decided on such point or proposition until counsel for both sides have had an opportunity of arguing the same before the court.

§ 1172. The supreme court may, from time to time, make rules consistent with existing laws for regulating the practice and conducting the business of said court, and thereafter revise the said rules at its discretion; but in no case shall have power to impose costs not expressly authorized by law.

TRANSLATION OF DECISIONS.

[§§ 1173–1178.]

NOTE TO CHAPTER 81.

§§ 1162–1168 are S. L. 1892, ch. 57, §§ 49–55. § 1169 is C. L. § 844. § 1170 is S. L. 1896, act 12. §§ 1171–1172 are S. L. 1892, ch. 57, §§ 57–58. §§ 1173–1178 are S. L. 1890, act 53..

Cases in Hawaiian Reports: Estate Bishop, 5 Haw., 290; Re Military Act, 7 Haw., 769; Govt. v. Poor, 9 Haw., 220; Est. Banning, 9 Haw., 356; Byrne v. Allen, 10 Haw., 338.

CHAPTER 82.

CLERKS OF THE JUDICIARY DEPARTMENT.

§ 1179. There shall be a clerk of the judiciary department and as many deputy clerks as the business of the department shall require, whose salaries shall be fixed by the legislature. The clerk of the judiciary department shall be appointed by the justices of the supreme court, and shall be *ex officio* clerk of all the courts of record of the Territory, and as such may issue process returnable in all such courts. He shall have supervision and direction of the deputy clerks, but shall not be held responsible for their acts or omissions. He shall have charge of the records, moneys, and business in the central office, in Honolulu, and shall supervise and direct the mode of keeping accounts and records.

There shall be two or more deputy clerks appointed for the first circuit by the circuit judges thereof and the justices of the supreme court, who shall be clerks of the supreme court and the circuit court of the first circuit. There shall also be one deputy clerk appointed for each of the other circuit courts by the respective circuit judges thereof. All clerks shall be liable to removal for inefficiency or misconduct by the justices of the supreme court, and the deputy clerks appointed to the circuit courts shall also be liable to removal by the respective judges of such courts.

§ 1180. The clerk and each of the deputy clerks shall give a bond to the treasurer for the faithful performance of his official duties, the amount and sufficiency of which shall be approved by the chief justice. The clerk shall have supervision and direction of the deputy clerks, but shall not be held responsible for their acts or omissions.

§ 1181. The clerk shall have charge of the records and business in the Honolulu office; one deputy clerk shall be assigned to each circuit judge of the first circuit, and there shall be one or more deputy clerks assigned to each of the other circuit courts. The clerk may temporarily assign to any deputy clerk, with the consent of the circuit judge of the circuit to which such deputy clerk is permanently assigned, any clerical duties in any other circuit than the one in which he is located.

§ 1182. The clerks of the courts of record of the Territory shall have

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power to issue process, administer oaths, take depositions, tax costs, and perform all other duties pertaining to their office. They shall also be *ex officio* masters in chancery. A clerk shall attend and record the proceedings at all sittings of courts of record, and in proceedings before a circuit judge in chambers shall, if there is no official reporter in attendance, record the oral evidence adduced when so required by the judge.

§ 1183. The several clerks of the judiciary department shall have the custody of all records, books, papers, money, and other things pertaining to the courts where they are assigned for duty. The records of the supreme court and the circuit court of the first circuit shall be kept at the Honolulu office. The records of the other courts shall be kept at such places as the judges of those courts shall direct.

§ 1184. The clerk shall supervise and direct the mode of keeping accounts and records. Deputy clerks, stationed outside of the first circuit, shall report to the Honolulu office the amount and nature of the business done in their respective courts, in manner and form as directed by the clerk. There shall be kept in the Honolulu office proper registers and indexes of the business of all the courts of record of the Territory, and each court of record outside of Honolulu shall have proper registers and indexes of its business kept with its records.

§ 1185. Each court of record shall have a seal, which shall be in the custody of the clerk of such court, and shall be impressed upon all processes and official certificates, accompanied by the clerk's official attestation.

§ 1186. All courts, not of record, in the Territory, shall send to the clerk at stated times, in such manner and form as he shall direct, detailed statements of the money collected or disbursed by them. The clerk shall personally, or by one of the deputy clerks, inspect from time to time the manner in which the records and accounts of all the courts of the Territory are kept, and make such changes and improvements therein as shall be necessary, and his reasonable traveling expenses for this purpose, when approved by the chief justice, shall be paid out of any appropriation of the judiciary department available therefor.

§ 1187. In case of the temporary absence or disability of any deputy clerk, or if the business of the department or of any court demands, the judge of such court may commission a deputy clerk for such temporary duty as may be required; and the salary of such deputy clerk, at a rate not to exceed one hundred dollars per month, and for a period not to exceed three months, may be paid out of any appropriation of the judiciary department available for running expenses.

[§ 1188.]

§ 1189. The clerk of the supreme court, his deputies, and the clerks of the several circuit courts are hereby authorized to tax costs in any case before either of said courts or at chambers or other department of the same. Such taxation shall be subject to appeal, as now provided by law with regard to cases at chambers or before a judge of either of said courts.

§ 1190. Whenever either party shall desire to have the costs in any case taxed, notice of taxation of at least twenty-four hours shall be served upon the opposite party to attend before the clerk for that purpose.

§ 1191. Nothing herein contained shall operate to prevent the entry of judgment for costs, as at present accustomed, nor to deprive the judges of the right to tax costs, as now provided by law.

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NOTE TO CHAPTER 82.

§§ 1179–1187 are S. L. 1892, ch. 57, §§ 59–67. §§ 1189–1191 are S. L. 1888, ch. 53.
Cases in Hawaiian Reports: R. v. Kahele, 7 Haw., 388; Magoon v. Ami, 8 Haw., 193; Govt. v. Caecires, 9 Haw., 540; Re Wundenberg, 9 Haw., 681.

CHAPTER 83.

MASTERS IN CHANCERY.

§ 1192. The supreme court may appoint a suitable number of persons, besides the clerk of said court, to be masters in chancery, who shall hold office during the pleasure of said court.

§ 1193. The several masters in chancery shall take and subscribe an oath for the faithful discharge of the duties of their office, which oath may be administered by any justice of the supreme court.

§ 1194. They shall perform, under the direction of the supreme court, or of any justice thereof, all the duties which, according to the practice in chancery, appertain to the office, and as shall be assigned to them, and they shall be allowed therefor such fees as the court shall order.

§ 1195. Their fees shall be taxed with the other costs in the cause, and shall be eventually paid by such party, or in such manner as the court shall order.

§ 1196. Every master in chancery shall, upon his appointment, pay to the clerk of the supreme court a fee of ten dollars for the benefit of the public treasury.

NOTE TO CHAPTER 83.

§§ 1192–1196 are C. L. §§ 1075–1079.

CHAPTER 84.

ATTORNEYS AND COUNSELLORS AT LAW.

§ 1197. The supreme court shall have power to examine and admit as practitioners in the courts of record such persons, being citizens of the United States, of good moral character, and having taken the prescribed oath of office, as said court may find qualified for that purpose.

§ 1198. Said practitioners shall be summarily amenable to the courts of record, and may be fined, imprisoned, or dismissed from the roll of practitioners, for satisfactory cause, upon the complaint of any party aggrieved by their malpractice, or for nonpayment of moneys collected by them for private parties, or for any deceit, or other gross misconduct.

§ 1199. They shall have the right to practice in all the courts of the Territory, and to appear therein as attorneys, counsellors, solicitors, or proctors, in behalf of third persons who may choose to retain them, for the prosecution or defense of actions, civil, criminal, or mixed; and shall be entitled to charge for their services the fees prescribed by law, which being taxed by any judge of the court, shall be added to the judgment and collected for their benefit.

§ 1200. No person shall be allowed to practice in any court of record in this Territory, or before a circuit judge at chambers, unless he shall have been duly licensed so to do by the supreme court: Provided, That nothing in this chapter contained shall be construed to prevent any person, plaintiff, defendant or accused, from appearing in person before any court, or justice, and there prosecuting or defending his own cause, without the aid of legal counsel.

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§ 1201. The practitioners so licensed shall have control to judgment and execution of all suits and defenses confided to them: Provided, however, that no such practitioner shall have power to compromise, arbitrate, and settle such matters confided to him, unless upon special authority in writing from his client.

§ 1202. The oath of office to be taken and subscribed by such practitioners shall be as follows:

"SUPREME COURT, T. H.

"——— ———, being duly sworn, deposes that he will support the Constitution and laws of the United States and the laws of the Territory of Hawaii, and faithfully discharge the duties of attorney, counsellor, solicitor, and proctor in the courts of this Territory to the best of his ability."

Such oath shall be taken and subscribed before some judge of a court of record.

§ 1203. The license to be given to a practitioner shall be in the following form:

"SUPREME COURT, T. H.

"——— ———, esquire, having been examined and found duly qualified, and of good moral character, I do hereby license him to practice in all the courts of this Territory as an attorney, counsellor, solicitor, and proctor thereof during good behavior.

"Given under my hand and seal of the supreme court this —— day of ———, 18——.

"——— ———, *Chief Justice.*"

§ 1204. The supreme court may prescribe terms and periods of study preparatory to the admission of practitioners, and rules for their government in the pursuit of their practice, not inconsistent with any law of the Territory.

§ 1205. The clerk of the supreme court shall exact from every practitioner, upon his receiving a license, an admission fee of ten dollars for the benefit of the public treasury.

ATTORNEYS IN DISTRICT COURTS.

§ 1206. The supreme court and the several circuit courts shall have power to examine and admit as practitioners in the district courts in the Territory such persons, being citizens of the United States of good moral character and have taken the oath of office, as said courts may find qualified for that purpose.

§ 1207. The said license shall be for the term of two years, and shall be valid in all the judicial circuits of the Territory. The fee for a license shall be five dollars for the first issue and two dollars for each renewal thereof. Such license may be in the following form:

——— COURT.

"——— ———, esquire, having been examined and found duly qualified and of good moral character, is hereby licensed to practice in the district courts of all the judicial circuits of the Territory and before the circuit judges at chambers on appeal as an attorney at law for the term of two years from date.

"By order of the court.

"——— ———, *Clerk.*

"Dated ———, ——."

§ 1208. No person shall be allowed to practice law in the district courts of the Territory without a license, provided that any person may appear

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to prosecute or defend his own cause, and that of any one of his own family. The word family in this section shall be held to mean a man's parents, brothers, sisters, wife, and descendants.

NOTE TO CHAPTER 84.

§§1197-1206 are C. L. §§1065-1074a. §1207 is S. L. 1890, ch. 55. §1208 is S. L. 1886, ch. 63.

Cases in Hawaiian reports: Re Keliikoa, 5 Haw., 279; re Achi, 8 Haw., 217; re Achi, 10 Haw., 7.

CHAPTER 85.

CIVIL PROCEDURE IN DISTRICT COURTS.

§ 1209. The original writ in all civil actions begun before a district court shall be a summons, a writ of replevin, a *capias*, or an attachment, and shall be signed by the magistrate of such court, and shall contain a notification to the defendant that if he fails to attend at the time and place of trial designated in the writ judgment will be rendered upon default according to the evidence taken *ex parte*. All original writs shall be returnable not less than one nor more than six days from the date of issue.

§ 1210. Such magistrate shall issue an attachment against the personal property of the defendant when requested in any action founded on a judgment or on a contract, express or implied, if the plaintiff, or some one in his behalf, shall make and file in such court an affidavit specifying, as near as may be, the amount due the plaintiff from the defendant, exclusive of all set-offs and counterclaims, and containing a further statement either that the deponent knows, or has good reason to believe—

First. That the defendant contracted the debt sued upon in a fraudulent and deceitful manner, or upon false and unfounded pretences; or

Second. That the defendant has assigned, disposed of, or concealed, or is about to assign, dispose of, or conceal his property, with the intent to defraud his creditors; or

Third. That the defendant is about to remove any of his property from the island wherein such application is made, with the like intent, and that he refuses and neglects to pay or secure the payment of the debt; or

Fourth. That the defendant has absconded to the injury of his creditors, or is not a resident of this territory, or has not resided therein for one month immediately preceding such application:

Provided, That it shall not be lawful for such magistrate to issue an attachment until the applicant shall have deposited with him a bond in a penal sum of not less than fifty nor more than five hundred dollars, with one or more sufficient sureties, to be approved by such magistrate, conditioned for the payment of all the costs of the proceeding, and of all damages sustained by the defendant by reason of the attachment, in case the plaintiff shall not sustain his suit, or in case the attachment shall be dissolved, by competent authority, before final judgment in such suit. Such attachment may be in the following form:

"To any constable of the district of ———, island of ———, H. I.

"You are hereby commanded to attach and safely keep the property of ——— ———, if any can be found within this district, subject to the order of this court [or other court as the case may be], at the sworn information and suit of ——— ———, plaintiff, to answer to a debt [or obli-

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gation as the case be], alleged to be due him from the said ——— ———, and having so attached, you are further commanded to summon the said ——— ———, if he can be found in this district, to appear and answer the complaint and demand of the said plaintiff before me at ——— ———, on the —— day of ——— ———, A. D. —— [or before another court, as the case may be, stating the time], and then and there show cause, if any he has, why judgment should not be rendered against him, and the property attached subject to execution, levy, and sale for the payment of the said demand, interests, and costs.

"Notify the said ——— ——— that upon default to attend at the time and place above mentioned, judgment will be rendered against him *ex parte* by default.

"Given under my hand this —— day of ———, A. D. ——

"———— ————,

"District Magistrate of ———."

§ 1211. Such attachment shall be dissolved by the magistrate issuing the same in case the applicant fail to establish his claim on appearance and contest of the merits by the defendant, or if, having appeared in the cause, the defendant, upon motion to dissolve such attachment, shall prove to the satisfaction of the court that the alleged special facts upon which such attachment was issued did not, at the date of such issue, exist, but in case the defendant make default, or appearing, the plaintiff substantiate his demand, the property attached shall be liable to execution at his instance, and shall be levied on, advertised, and sold as in other cases, subject to the right of appeal and the right of property in third persons.

§ 1212. Every attachment issued as aforesaid shall be imposed by placing the property in security, without removing the same from the defendant's premises, except for greater safety, at the option of the officer executing the writ. The officer so attaching shall take an inventory thereof, and append a copy of the same to his return of the attachment. He shall also furnish a copy of the inventory to the defendant, and shall post in three conspicuous places in the district a notice as follows:

"By virtue of a writ from ——— ———, district magistrate of———, returnable at ——— on the —— day of ———, A. D. ——, at the suit of ——— ——— for —— dollars, I have attached, subject to a demand to be proved, the following articles of property, to wit, ———.

"All persons having rights in said property are hereby notified to prove their claims on or before the return day above named.

"Dated the —— day of ———, A. D. ——.

"———— ————."

§ 1213. Any person indebted to another, or liable to another in law, for money to an amount not exceeding five hundred dollars, may, with or without suit first instituted against him, appear in person or by duly empowered attorney, before a district magistrate and there confess judgment against himself and his property for such sum, with costs. And the magistrate shall, in every such case, enter up judgment in the same manner as if he had rendered the same upon default, or upon evidence of indebtedness, and issue execution thereon in like manner and with the like effect; provided that no such judgment confessed without suit shall have the effect in law to cover or conceal the property of a debtor, nor take precedence of other judgments subsequently rendered, if it appear that the same was collusively or fraudulently confessed, or confessed without legal consideration, or with the

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view of giving fraudulent and undeserved precedence to one creditor over another.

§ 1214. Any judgment rendered in a district court shall be a lien upon real property when a transcript thereof, certified by the magistrate of such court, shall have been docketed in the office of the clerk of the circuit court of the judicial circuit in which such district court is situated. Such judgment docket shall be recorded in the registry of deeds, in a book specially kept for that purpose, within fifteen days after such docketing; otherwise such lien shall be void.

NOTE TO CHAPTER 85.

§§ 1209–1212 are S. L. 1892, ch. 57, §§ 14–17. §§ 1213–1214 are S. L. 1892, ch. 57, §§ 23–24.

Criminal Procedure, see Penal Laws, ch. 53.

CHAPTER 86.

CIVIL PROCEDURE IN COURTS OF RECORD.

§ 1215. Every civil action hereafter to be tried in any of the courts of record in this Territory shall be commenced by petition, which petition shall be verified by the oath of the plaintiff, or some one on his behalf, deposing to the best of his knowledge and belief.

SUIT ON EVIDENCE OF INDEBTEDNESS.

§ 1216. In all suits for the recovery of money upon evidences of indebtedness, or vouchers certain or computable by the court, that is to say, upon promissory notes, bills of exchange, drafts, orders, bonds, and other instruments, parol or specialty, the plaintiff, in person or by his attorney, shall file a petition for process, addressed to the chief judge or justice of the court, in substance as follows:

"The undersigned claims of ——— ———, residing at ———, island of ———, ——— dollars, upon (a note or other evidence of debt, as the case may be) dated ———, payable on ———, with ——— interest from ———. Said defendant has neglected and refused to pay the same until this date (and in case of fraud or concealment, or other collusive or deceptive circumstances attendant upon the contracting or the non-payment of the debt, here insert the same according to the circumstances).

"Wherefore, the undersigned asks the process of this court to cite the said defendant to appear and answer this demand.

"Dated —— day of ———, 18——.

"———— ————,

"*Plaintiff (or Plaintiff's Attorney).*"

§ 1217. Upon the filing of such petition, in case no fraudulent circumstances be alleged by the plaintiff, the clerk shall issue, under the seal of the court, a summons addressed to the marshal or his deputy, which may be in the following form:

"You are commanded to summon ———, defendant, in case he shall file written answer within twenty days after service thereof, to be and appear before the supreme court (or circuit court for the ——— judicial circuit, as the case may be), at the ——— term thereof, to be holden at ———, in the island of ———, on the —— day of ——— next, at —— o'clock a. m., to show cause why the claim of ———, plaintiff, should not be awarded to him pursuant to the tenor of his annexed petition.

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And have you then there this writ, with full return of your proceedings thereon.

"Witness ——— ———, esquire, chief justice of the supreme court, at Honolulu, this —— day of ———, A. D. 18——.

[SEAL.] "———— ————,

"*Clerk.*"

§ 1218. Every summons issued under the seal of a court of record shall be served by the chief sheriff or his deputy, or a sheriff or deputy sheriff, upon the defendant, by the delivery to him of a certified copy thereof, and of the plaintiff's petition, to which petition shall always be annexed a literal copy of the voucher upon which it is predicated (if any there be), or, in case the defendant can not be found, by leaving such certified copy with some agent or person transacting the business of the defendant, or at the defendant's last place of residence.

§ 1219. In all cases where process of any court of record, or not of record, or any complaint, order, or citation be served by any officer of the court or of the police force, including the chief sheriff, his deputy, or any sheriff or his deputies, a record thereof shall be indorsed upon the back of such process, complaint, order, or citation. Such record shall state the name of the person served and the time and place of service, and shall be signed by the officer making the service. Such record shall be prima facie evidence of all it contains and no further proof thereof shall be required unless either party shall desire to examine such officer, in which case he shall be notified to appear for examination.

§ 1220. If the defendant was never an inhabitant of the Territory (but has property situated within the same), or has removed therefrom, and the fact shall appear by affidavit to the satisfaction of the court, or a judge thereof at chambers, and it shall in like manner appear that a cause of action exists against such defendant, or that he is a necessary or proper party to the action, such court or judge may grant an order that the service be made by publication of the summons.

§ 1221. Such order shall direct the publication to be made in the Government Gazette, for such length of time as may be deemed reasonable, not less than three months. In case the residence of the defendant is known, the court or judge shall, in addition to the publication, direct a copy of the summons and petition to be forthwith deposited in the post-office, addressed to the defendant, at his place of residence. When publication is ordered, personal service of a copy of the summons and petition out of the Territory shall be equivalent to publication and deposit in the post-office. In either case the service of the summons shall be deemed complete at the expiration of the time prescribed by the order for publication.

§ 1222. It shall be necessary to join as defendants in a civil action all the joint and several or joint makers of promissory notes, or drawers of drafts, bills of exchange, or orders, or joint and several obligors, lessees, or parties of the first or second part to covenants, agreements, and contracts, in suing for nonpayment, nonacceptance, or nonfulfillment thereof, but it shall in no case be necessary to serve all the joint parties sued with process. Service of process upon one of several defendants at law shall be legal service upon all for the purposes of appearance in court, and judgment may be entered against all such codefendants thereon: Provided, however, that no execution shall issue against the sole property of any joint defendant on whom process was not duly served as aforesaid.

§ 1223. It shall be incumbent upon every defendant served with proc-

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ess of summons as hereinbefore provided, within the time specified in the summons or order of publication, to file with the clerk of the court an answer to the plaintiff's demand, either admitting all the facts stated in the petition to be true, and denying that they are sufficient in law to support the plaintiff's demand, which shall form an issue of law to be determined by the court, or denying the truth of the facts stated in the petition, which shall form an issue of fact to be determined by the jury. After either of these answers there shall be no further pleading.

Provided, that in all cases where the defendant is sued as the maker, drawer, acceptor, or endorser of any banker's cheque, promissory note, bill of exchange, or other negotiable security, he shall not be allowed to file an answer unless he shall file therewith an affidavit made by himself or by some person cognizant of the facts, on his behalf, that the defendant has a good defense to the action on the merits, and stating some substantial ground of defense to the action, if such action be commenced within six months after the dishonor of the instrument on which the action is brought.

§ 1224. Under the second answer mentioned in the last preceding section, the defendant may give in evidence, as a defense to any civil action, any matter of law or fact whatever.

§ 1225. The respective courts of record shall have power to make such general and special rules and orders, respecting notice to the opposing party, of matters intended to be given in evidence by either party to a suit, as shall be necessary to prevent surprise and to afford an opportunity for preparation for trial.

§ 1226. In case the defendant does not put in an answer to the petition as hereinbefore required, the plaintiff may prove service of the summons by personal delivery or otherwise, and default in answering, by the clerk's certificate, and shall thereupon be entitled to demand and receive of the court, or judge at chambers, an order declaring the defendant in default, and authorizing the clerk, if the demand be upon a promissory note or any other voucher contemplated by section 1216, to assess the amount of the plaintiff's claim, principal, damages, and interest, and to enter up judgment therefor and for the costs.

§ 1227. In actions where the service of the summons was by publication, the plaintiff, upon the expiration of the time designated in the order of publication, may, upon proof of the publication and that no answer has been filed, apply for judgment; and the court or judge at chambers shall thereupon require proof to be made of the demand mentioned in the complaint, and shall require the plaintiff or his agent to be examined on oath respecting any payments that may have been made to the plaintiff, or to anyone for his use, on account of such demand, and may render judgment for the amount which he is entitled to recover.

§ 1228. In case the defendant shall put in an answer denying the truth of the facts set forth in the plaintiff's petition, which answer shall be called the general issue, the clerk shall enroll the cause upon the calendar of civil causes triable in the court in which the action was commenced.

§ 1229. In case the defendant shall put in an answer admitting the facts stated in the petition to be true, and denying that they are sufficient in law to support the plaintiff's demand, which answer shall be called a demurrer, the plaintiff shall join therein within twenty days on pain of being defaulted, and may apply to a judge at chambers for a hearing and decision of the issue.

§ 1230. The judge so applied to shall have power to cite the defendant,

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appoint a day for argument, cite witnesses to prove collateral facts involved, and to decide the issue, subject to exceptions by either party.

§ 1231. If no exception be taken at chambers to the judge's decision of a question of law, and no question of fact remains to be decided at the term, the judge shall make an order to the clerk to enter up the judgment awarded by him upon the issue, which shall be valid, subject to an appeal to the court *in banco*.

UNLIQUIDATED DEMANDS AND RECOVERY OF PROPERTY.

§ 1232. In all civil cases involving unliquidated demands constructive, implied, suppositious, or hypothetical right on the part of the government or of any private person, corporation, or other party, being plaintiff, to recover money or damages pursuant to the words or the spirit or intent of any law heretofore, now, or hereafter to be passed, or of any instrument in writing signed by any party, or of any verbal understanding, contract, or agreement, or in consequence of any injury, direct or consequential, to the party plaintiff, or to his property, real or personal, or to his character or his feelings, the plaintiff, in person or by attorney, shall file with the clerk of the court a petition for process in substance as follows:

"The undersigned claims of ———, defendant, residing at ———, island of ———, the sum of ——— dollars, for damages resulting to him (or, as the case may be) for injury done by said defendant to (the person, the property, the character, or the feelings of the plaintiff, as the case may be), in that the defendant did (here set forth the cause and the manner in which the injury was done circumstantially, with the view to proof), which the plaintiff alleges was done in contravention of his private rights under the laws.

"Wherefore the undersigned asks the process of this court to cite the said defendant to appear and answer this his complaint before a jury of the country, at the ——— term of this court, unless otherwise sooner disposed of by judicial authority."

§ 1233. In all cases contemplated by the last preceding section the plaintiff may, according to circumstances, include in his petition an allegation that the defendant is secreting his property, or disposing of the same, or colluding so to do, or is about to depart the Territory, or is damaging or wasting the said property, and thereupon ask for process of attachment, or injunction, or personal arrest, against the defendant, as such plaintiff may judge proper to ask in the premises.

§ 1234. In actions to recover at law any specific property, real or personal, or any specific share or interest or right to property, real or personal in kind, as in cases of replevin or of ejectment, the plaintiff, in person or by attorney, shall file with the clerk of the court a petition for process, which may be in the following form:

"The undersigned complains of ———, defendant, residing at ———, island of ———, that he has unjustly, and contrary to law and the rights of the plaintiff, taken into his possession and converted to his use (or occupation, as the case may be) the following property, viz: (here set forth the property wrongfully in the defendant's possession, whether real or personal, and if personal, the articles by name or description, and if real, the metes, bounds, quantity, and locality thereof, with the kind of title claimed by the plaintiff), valued at ——— dollars, (or if in ejectment, state in lieu of the value, to the damage of said plaintiff ——— dollars).

"Wherefore the plaintiff asks the process of this court to cite the said defendant to appear and answer this complaint before a jury of the

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country, at the ——— term of this court, unless sooner disposed of by judicial authority, and that the plaintiff may have restitution of said property, with damages for its retention (or as the case may be)."

§1235. In cases of ejectment under the last preceding section the plaintiff may, according to circumstances, allege in his petition that there is danger the defendant, or some one for him, will commit destruction of tenements or other property on the premises in controversy *pendente lite*, and thereupon ask for process of injunction or other restraining process of the court, as such plaintiff may judge proper to ask.

§1236. In every such case in which process of constraint to the person or property of a defendant is prayed for, no such process shall issue until the plaintiff, or some one on his behalf, shall have filed a bond conditioned for the reimbursement to the defendant of all costs, charges, and damages sustained by him in consequence of the suit in case the plaintiff fail to sustain his action. Upon the filing of the petition and bond any judge of the court at chambers may sanction a constraining writ by endorsing thereon his written allowance, without which no executive judicial officer shall be justified in the seizure, constraint, restraint, or commitment of a defendant, or in the seizure, attachment, removal, detention, or injunction of his property, real or personal.

§1237. If the judge deem it proper that the defendant, or any of several defendants, should be heard before granting an injunction, he may grant an order requiring cause to be shown at a specified time and place why the injunction should not be granted; and the defendant may in the meantime be restrained.

§1238. In case the petition contains no prayer for constraining process, the clerk shall issue a summons, addressed to the chief sheriff or his deputy, which may be in the following form:

"You are commanded to summon ———, defendant, in case he shall file written answer within twenty days after service thereof, to be and appear before the supreme court (or circuit court for the ——— judicial circuit), at the ——— term thereof, to be holden at ——— on the —— day of ——— next, at —— o'clock a. m., to show cause why the claim of ———, plaintiff, should not be awarded to him pursuant to the tenor of his annexed petition. And have you then there this writ, with full return of your proceedings thereon.

"Witness ——— ———, esquire, chief justice of the supreme court, at Honolulu, this —— day of ———, 18—.

"———— ————, *Clerk.*"

"Witness ——— ———, esquire, chief justice of the supreme court, at Honolulu, this —— day of ———, 18—.

"———— ————, *Clerk.*"

§ 1239. In case the petition contains a prayer for process of constraint against the defendant, or his property, and the plaintiff has filed with the clerk a bond as prescribed in section 1236 approved by a judge at chambers, and the judge has allowed the constraining process, the clerk may issue a summons in the form prescribed in the last preceding section, with an additional clause after the words "annexed petition," as follows:

And you are further commanded to arrest the said defendant and commit him to prison, unless he shall give bond to answer as aforesaid (or to attach and keep safely the said personal property until judgment of restitution be awarded or refused, or to enjoin the said defendant, under penalty of —— dollars, not to sell, mortgage, lease, or rent the

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said real property, lands, and tenements until the dissolution of such injunction by competent judicial authority).

§ 1240. In all cases of attachment, sequestration, or injunction of real property, the officer serving the writ shall, in addition to personal delivery of a copy thereof to the defendant, post upon the premises a copy of the process, and a notice of the day and hour when attached, sequestrated, or enjoined, and shall also give notice thereof in the Government Gazette. All after-leases, mortgages, sales, bequests, assignments, trusts, or other conveyances of said property, until the dissolution of the process, shall be void in law as against the plaintiff in such cases.

§ 1241. All persons residing or being in this Territory shall be personally responsible in damages for trespass or injury, whether direct or consequential, to the person or property of others, or to their wives, children under majority, or wards, by such offending party, or by his wife, or his child under majority, or by his command, or by his animals, *domitæ* or *ferœ naturæ;* and the party aggrieved may prosecute therefor in the proper courts.

§ 1242. Upon failure of any party defendant, after having been served with the process prescribed in sections 1217 and 1238, to answer the complaint within twenty days after service, the plaintiff in the action, upon proof to a judge at chambers, shall be entitled to an order for judgment by default, debarring the defendant from the right to answer. The judge or the court shall have power, however, to open the default, in their discretion, for good and sufficient reasons.

§ 1243. The clerk shall, after such default, enter the cause upon the calendar of assessments to be made *ex parte* at the term upon sole adduction of plaintiff's evidence, without admitting the defendant to rebut the same: Provided, however, That the defendant may in person, or by counsel, cross-examine the plaintiff's witnesses, and address the jury in mitigation of damages.

§ 1244. The measure of damages in all cases contemplated by section 1232, shall be according to the true legal interpretation of the court upon the law, instrument, contract, or agreement; and in all cases of injury, direct or consequential, to the plaintiff in person, or his wife, child, or servant, or to his, her, or their character or feelings, or to his property, real or personal, the measure of damages shall be determined by the jury.

§ 1245. In actions of ejectment to enforce the right of possession of lands, it shall be sufficient to serve the party in actual possession thereof, though he be not the adverse claimant, or if no one be in actual possession at the time, to post a copy of the process and notice to the party claiming adversely, in some conspicuous place upon the premises, at least thirty days before the first day of the term of the court at which the case is to be tried.

§ 1246. Issues of fact arising in any suit, contemplated by sections 1216 and 1232, shall be tried by a jury, unless a jury trial be waived by the parties, with the consent of the court.

TRIAL BY REFEREES.

§ 1247. In all cases of complication, and in cases involving long accounts, the court may, upon the written application of either party showing satisfactory cause, or of its own motion, appoint competent referees, as provided in section 1152 of the civil laws, to hear and decide upon the facts and merits of the case, reporting their decision to the court: Provided, however, That this provision shall not extend to any case contemplated by sections 1232 and 1234.

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§ 1248. Referees so appointed shall be sworn to the faithful and speedy investigation of, and to an honest award upon, the matters submitted to them. All persons residing for the time being withing the jurisdiction of the court, and liable to serve as jurors, shall be liable to serve as referees upon appointment.

§ 1249. Either party may take exception to the decision of the referees upon a question of law, and it shall be the duty of the referees to note such exception.

§ 1250. The report of referees in any cause shall be signed by them or a majority of them. They shall file it with the clerk of the court by whom they were appointed, and such clerk shall notify the parties.

§ 1251. The party in whose favor the report shall have been made shall, within ten days after being notified by the clerk, move the court or a judge at chambers, giving at least forty-eight hours' notice of such motion to the opposite party, for judgment of confirmation, which the court or judge shall grant or refuse upon hearing the parties, or upon default of the opposite party to appear after proper notice of such motion.

TRIAL BY THE COURT.

§ 1252. The parties to a civil suit may, with the consent of the court, waive the right to a trial by jury, either by written consent or by oral consent in open court entered on the minutes: Provided, however, That in case of the failure of either party to appear at the trial, the other party being present, the absent party shall be considered to have waived his right to a trial by jury, and the case shall be tried with or without a jury, at the option of the party in attendance.

§ 1253. In such case the court shall hear and decide the cause, both as to the facts and the law, and its decision shall be rendered in writing. If the taking of an account be necessary to enable the court to complete its judgment, a reference may be ordered for that purpose.

[§ 1254.]

SUBMITTING A CASE WITHOUT ACTION.

§ 1255. Parties to a question in difference, which might be the subject of a civil action in the circuit court or supreme court may, without action, agree upon a case containing the facts upon which a controversy depends and present a submission of the same to the justices of the supreme court either in term time or in vacation; but it must appear by affidavit that the controversy is real and the proceedings in good faith to determine the rights of the parties: Provided, however, That the justices of the supreme court may, in their discretion, require the case to be first submitted to a circuit judge at chambers subject to appeal.

§ 1256. The justices, or a majority of them, shall thereupon hear and determine the case, and render judgment thereon in writing, as if an action were depending.

§ 1257. Judgment shall be entered in such case as in ordinary civil actions. The case, the submission, and the written decision shall constitute the record.

§ 1258. The judgment shall be final, and may be enforced in the same manner as if it had been rendered in an action.

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UNITING SEVERAL CAUSES OF ACTION.

§ 1259. The plaintiff in a civil suit may unite several causes of action in the same complaint when they all arise out of—

1. Contracts, express or implied; or,
2. Claims to recover specific real property, with or without damages, for the withholding thereof, or for waste committed thereon, and the rents and profits of the same; or,
3. Claims to recover specific personal property, with or without damages for withholding thereof; or,
4. Claims against a trustee, by virtue of a contract, or by operation of law; or,
5. Injuries to character; or,
6. Injuries to the person; or,
7. Injuries to property. But the causes of action so united shall all belong to one only of these classes, and shall effect all the parties to the action, and shall be separately stated.
8. Every holder of a banker's cheque, promissory note, bill of exchange, or other negotiable security, may join as defendants in any action for the recovery of the amount secured by any such instrument all or any of the antecedent parties to the same, whether maker, drawer, acceptor, or endorser.

AMENDMENTS.

§ 1260. Whenever a plaintiff in any action shall have mistaken the form of action suited to his claim, the court, on motion, shall permit amendments to be made on such terms as it shall adjudge reasonable; and the court may, in furtherance of justice and on the like terms, allow any petition or other pleading to be amended in any matter of mere form, or by adding or striking out the name of any party, or by correcting a mistake in the name of a party, or a mistake in any other respect.

SET-OFF AND TENDER.

§ 1261. It shall be competent to the defendant in any civil action to plead an offset of like kind and denomination, existing in the same right between him and the plaintiff, or having made a legal tender of money in full payment of the plaintiff's demand, to plead such tender, and bring the amount thereof into court in bar of further interests and costs, after such tender.

§ 1262. If the demand set off is founded on a bond or other contract having a penalty, no more shall be set off than the sum equitably due.

§ 1263. If there are several plaintiffs, the demand set off shall be due from them all jointly; if there are several defendants, the demand set off shall be due to them all jointly, except as is provided in the following section.

§ 1264. When the person with whom the contract is made has a dormant partner, and a suit is brought on such contract, by or against such partners jointly, any debt, due to or from the person with whom such contract was made, may be set off in like manner as if such dormant partner had not been joined in the suit.

§ 1265. When an action has been brought by one person in trust, or for the use of another, the defendant may set off any demand against the person for whose use or benefit the action is brought, in like manner as if that person were the plaintiff in the suit.

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§ 1266. The plaintiff shall be entitled to every ground of defense against such set-off of which he might have availed himself in an action brought against him on the same ground.

§ 1267. The statute limiting personal actions, if applicable to the set-off, shall be applied in the same manner as if an action thereon had been commenced at the time when the plaintiff's action was commenced.

DEPOSIT IN COURT, &C.

§ 1268. When it is admitted, by the pleading or examination of a party, that he has in his possession or under his control any money or other thing capable of delivery, which, being the subject of the litigation, is held by him as trustee for another party, or which belongs or is due to another party, the court may order the same, upon motion, to be deposited in court or delivered to such party upon such conditions as may be just, subject to the further direction of the court.

§ 1269. Whenever, in exercise of its authority, a court shall have ordered the deposit or delivery of money or other thing, and the order is disobeyed, the court, besides punishing the disobedience, may make an order requiring the chief sheriff or any of his deputies to take the money or thing and deposit or deliver it in conformity with the direction of the court.

DEPOSIT OF MONEYS IN THE PUBLIC TREASURY.

§ 1270. Whenever any money shall be paid into or deposited in any court of this Territory to abide the ascertainment of the right to such money or the determination or suit, the court shall have power, upon the application of any party interested or without such application, to order such money to be deposited in the public treasury, subject to the further order of the court.

§ 1271. Every administrator, guardian, receiver, or other fiduciary appointed by judicial authority may be required by order of any court or justice having jurisdiction of the subject-matter about which such fiduciary is employed, upon the application of any party interested or without such application, to deposit any money accruing in his hands in virtue of his trust in the public treasury, subject to the further order of some competent court or justice.

§ 1272. The provisions of sections 1270–1272 shall not be held to affect the power vested by will in any executor or guardian.

MISCELLANEOUS PROVISIONS.

§ 1273. The several courts of record may, from time to time, make such rules as they may deem necessary for the guidance of their respective clerks in making up calendars of the causes, civil and criminal, coming on for trial in said courts.

§ 1274. Causes placed upon the calendar shall be taken up and disposed of in the order in which they stand, unless postponed by the court at the request of the plaintiff or the defendant.

§ 1275. When a cause is reached upon the calendar, the plaintiff shall be called by the clerk, and if the plaintiff be not present nor represented by counsel who is present, or if he or his counsel, being present, decline to answer when so called, he may be declared nonsuit with costs. If, upon calling the plaintiff, he does appear, and the defendant, having joined issue, does not appear or answer when called, the court

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may order judgment by default to be entered against such defendant, and allow the plaintiff to proceed *ex parte* before the court or jury, and the verdict of the jury or decision of the court shall be rendered on such *ex parte* showing, unless good cause appear to the court for postponing the case.

§1276. At the trial of every civil suit, the plaintiff shall have the right to open the case, and first to introduce his witnesses and vouchers, and he shall also have the right to sum up the entire evidence and close the debate after the defendant has fully ceased. The defendant may cross-examine the plaintiff's witnesses, and he shall have the right to introduce his witnesses of defense when the plaintiff has rested his cause. The plaintiff may, in turn, cross-examine the defendant's witnesses. When all the evidence has closed, the defendant shall sum up his defense to the court or jury: Provided, That the justices of the supreme court may, by standing rule, modify the application of the foregoing provisions, should it appear expedient to do so.

§1277. Whenever two or more actions are pending at one time between the same parties and in the same court, upon causes of action which might have been joined, the court may order the actions to be consolidated into one.

§1278. The time within which an act is to be done, as provided in any part of this chapter, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

NOTE TO CHAPTER 86.

§§ 1215-1217 are C. L., §§ 1099-1102; § 1218 is S. L. 1898, act 5; § 1219 is S. L. 1888, ch. 57; §§ 1220-1251 are C. L., §§ 1103-1113, §§ 1115-1135; § 1252 is S. L., 1884, ch. 39; §§ 1253-1254, 1256-1269 are C. L., §§ 1138-1154; § 1255 is S. L. 1898, act 18; §§ 1270-1271 are S. L. 1862, C. L., p. 334; § 1272 is S. L., 1872, ch. 15; C. L., p. 334; §§ 1273-1278 are C. L., §§ 1161-1166.

Cases in Hawaiian Reports:

§ 1215 Frag v. Adams, 5 Haw., 668; Re Congdon, 6 Haw., 635; Cleghorn v. Macfarlane, 7 Haw., 317; Govt. v. Luce, 8 Haw., 18.

§ 1216 McGrew v. McGrew, 9 Haw., 480; Waterhouse v. Spreckles, 5 Haw., 251.

§ 1217 Ashford v. Titcomb, 5 Haw., 490.

§ 1218 Hoffschlaeger v. Han Same, 4 Haw., 418; Lishman v. Giles, 6 Haw., 262.

§ 1220 Purdy v. Janion, 2 Haw., 453; Byrne v. Allen, 10 Haw., 668.

§§ 1222-1226 Macfarlane v. Gilmore, 1 Haw., 43; May v. Haalelea, 2 Haw., 191; Heeia v. McKeague, 5 Haw., 102; Ashford v. Titcomb, 5 Haw., 490; Okuu v. Kaiaikawaha, 7 Haw., 312; Wailuku v. Dean, 8 Haw., 113; Walker v. Peterson, 9 Haw., 93; Bowler v. McIntyre, 9 Haw., 309; Ayers v. Mahuka, 9 Haw., 379; Dayton v. Hopkins, 10 Haw., 540; Gomez v. Gazette Co., 10 Haw., 108.

§ 1230 Bishop v. Everett, 6 Haw., 158.

§§ 1231-1226 Waterhouse v. Spreckels, 5 Haw., 251; Frag v. Adams, 5 Haw., 668; Kerr v. Hyman, 6 Haw., 301.

§ 1232 Dowsett v. Drown, 3 Haw., 815; Dias v. Gililand, 5 Haw., 542; Puuku v. Kaleleku, 8 Haw., 80; High v. Govt., 8 Haw., 549.

§ 1234 Nanie v. Namea, 3 Haw., 628; Un Wong v. Kan Chu, 5 Haw., 226; Est. Kanaina, 8 Haw., 636.

§ 1240 Holmes v. Soper, 6 Haw., 565.

§ 1241 Day v. Day, 8 Haw., 715.

§§ 1242-1243 Macfarlane v. McCandless, Ayers v. Mahuka, 9 Haw., 379.

§ 1244 Alau v. Everett, 7 Haw., 84.

§ 1245 Keanu v. Kino, 10 Haw., 106.

§§ 1252-1253 Ahin v. Widemann, 7 Haw., 334.

§§ 1255-1258 Thurston v. Ross, 8 Haw., 13; Board of Immigration v. Hakalau, 7 Haw., 254; Black v. Castle, 7 Haw., 273.

§ 1259 Kerr v. Martin, 7 Haw., 657.

§ 1260 Dowsett v. Jones, 9 Haw., 547.

§ 1261 Lazarus v. Trousseau, 4 Haw., 567; Watson v. Akanaliilii, 6 Haw., 571; Boyd v. Kaikainahaole, 10 Haw., 456; Lopez v. McChesney, 10 Haw., 225.

§ 1278 Reelection, 8 Haw., 603.

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CHAPTER 87.

ABATEMENT OF ACTIONS.

§ 1279. The death of a plaintiff or defendant shall not cause an action to abate, but it may be continued as hereinafter mentioned; and where an action would but for the provisions of this chapter, by reason of the death of either party, and in which the proceedings may be revived and continued under this chapter, the defendant or person against whom the action may be so continued may apply by summons to compel the plaintiff, or person entitled to proceed with the action in the room of the plaintiff, to proceed according to the provisions of this chapter, within such time as the judge shall order; and in default of such proceeding, the defendant, or other person against whom the action may be so continued as aforesaid, shall be entitled to enter a suggestion of such default, and of the representative character of the person by or against whom the action may be proceeded with, as the case may be, and to have judgment for the costs of the action and suggestion against the plaintiff, or against the person entitled to proceed in his room, as the case may be, and in the latter case to be levied of the goods of the testator or intestate.

§ 1280. If there be two or more plaintiffs or defendants, and one or more of them should die, if the cause of such action shall survive to the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, the action shall not be thereby abated; but such death being suggested upon the record, the action shall proceed at the suit of the surviving plaintiff or plaintiffs, against the surviving defendant or defendants.

§ 1281. In case of the death of a sole plaintiff or sole surviving plaintiff, the legal representative of such plaintiff may, by leave of the court or judge, enter a suggestion of the death and that he is such legal representative, and the action shall thereupon proceed; and if such suggestion be made before the trial, the truth of the suggestion shall be tried thereat, together with the title of the deceased plaintiff; and such judgment shall follow upon the verdict in favor of or against the person making such suggestion as if such person were originally the plaintiff.

§ 1282. In case of the death of a sole defendant or sole surviving defendant, where the action survives, the plaintiff may make a suggestion either in any of the pleadings, if the cause has not arrived at issue, or on the record, if it has so arrived, of the death, and that a person named therein is the executor or administrator of the deceased, and may thereupon serve such executor or administrator with a copy of the suggestion and with a notice signed by the plaintiff or his attorney requiring such executor or administrator to appear within twenty days after service of the notice, and that in default of his so doing the plaintiff may apply for judgment against him as such executor or administrator; and the same proceedings may be had and taken in case of nonappearance, after such notice, as upon a summons against such executor or administrator in respect of the cause for which the action was brought; and in case the defendant shall not have pleaded or answered before the death, the new defendant shall plead or answer at the same time to the petition and suggestion; and in case the defendant shall have pleaded before the death, the new defendant shall be at liberty to plead to the suggestion only by way of denial, or such plea as may be appropriate to and rendered necessary by his character of exec-

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utor or administrator, unless by leave of the court or a judge he shall be permitted to plead fresh matter in answer to the petition, and the pleadings upon the petition and the pleadings upon the suggestion shall be tried together, and in case the plaintiff shall recover he shall be entitled to the like judgment in respect of the debt or sum sought to be recovered, and in respect of the costs prior to the suggestion and respect of the costs of the suggestion and subsequent thereto, he shall be entitled to the like judgment as in an action originally commenced against the executor or administrator.

§ 1283. The death of either party between the verdict and the judgment shall not hereafter be alleged for error, if judgment be entered during the term in which such verdict was rendered, and if the plaintiff in any action happen to die after an interlocutory judgment and before a final judgment obtained therein, the said action shall not abate by reason thereof, if such action might be originally prosecuted or maintained by the executor or administrator of such plaintiff; and if the defendant die after such interlocutory judgment and before final judgment therein obtained, the said action shall not abate if such action might be originally prosecuted or maintained against the executor or administrator of such defendant and the plaintiff, or if he be dead after such interlocutory judgment, his executors or administrators shall and may have a writ of revivor in the form contained in the schedule to this chapter, or to the like effect against the defendant if living after such interlocutory judgment, or if he be dead, then against his executors or administrators, to show cause why damages in such action should not be assessed and recovered by him or them, and if such defendant, his executors or administrators, shall appear at the return of such writ and not show or allege any matter sufficient to arrest the final judgment, or shall make default, and inquiry of damages shall be thereupon held, or the amount for which final judgment is to be signed shall be referred to the clerk of the court; and upon return of the writ or delivery of the order with the amount endorsed thereon to the plaintiff, his executors or administrators, judgment final shall be given for the said plaintiff, his executors and administrators, prosecuting such writ of revivor against such defendant, his executors or administrators, respectively.

§ 1284. The marriage of a woman plaintiff or defendant shall not cause the action to abate, but the action may notwithstanding be proceeded with to judgment; and such judgment may be executed against the wife alone, or by suggestion or writ of revivor pursuant to this act judgment may be obtained against the husband and wife, and execution issued thereon; and in case of a judgment for the wife, execution may be issued thereupon by the authority of the husband, without any writ of revivor or suggestion; and if in any such action the wife shall sue or defend by attorney, appointed by her when sole, such attorney shall have authority to continue the action or defense, unless such authority be countermanded by the husband, and the attorney changed according to the practice of the court.

§ 1285. The bankruptcy of or assignment by the plaintiff in any action which the assignees or trustees might maintain for the benefit of the creditors shall not be pleaded in bar to such action, unless the assignees or trustees shall decline to continue and give security for the costs thereof, upon a judge's order, to be obtained for that purpose within such reasonable time as the judge may order; but the proceedings may be stayed until such election is made, and in case the assignees neglect or refuse to continue the action and give such security within the time limited by the order, the defendant may, within eight days

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after such neglect or refusal, by way of afterplea, plead the bankruptcy or assignment.

§ 1286. SCHEDULE.

"The Territory of Hawaii to ———, esquire,
Chief Sheriff of the Territory or his deputy, greeting:

"You are hereby commanded to summon ——— ———, of ———, to be and appear before our supreme court (or circuit court, as the case may be), at the ——— term thereof, to be holden at the court room of the court house at ———, in the island of ———, on ———, the ——— day of ——— next, to show cause why damages should not be assessed and recovered by A. B. (or C. D., as executor of the last will and testament of A. B., deceased, or as the case may be), against you (if against a representative, here insert as executor of the last will and testament of ——— ———, deceased, or as the case may be), on an interlocutory judgment rendered in favor of the said A. B. (or as the case may be), on the ——— day of ———, in the said court against you (or as the case may be). And notify the said ——— that in default of his doing so the said A. B. (or as the case may be) may have the said damages assessed and proceed to execution.

Witness, etc.

NOTE TO CHAPTER 87.

§§ 1279–1286 are S. L. 1876, ch. 34, C. L., p. 385.
Cases in Hawaiian Reports: Bishop v. Lokana, 6 Haw., 557; Kukea v. Keahi, 10 Haw., 505.

CHAPTER 88.

STATUTE OF LIMITATIONS.

THE TIME OF COMMENCING PERSONAL ACTIONS.

§ 1287. The following actions shall be commenced within six years next after the cause of such action accrued, and not after:

1. Actions for the recovery of any debt founded upon any contract, obligation, or liability, excepting such as are brought upon the judgment or decree of some court of record.
2. Actions upon judgments rendered in any court not being a court of record.
3. Action of debt for arrearages of rent.
4. Actions for trespass upon lands.
5. Actions for taking, detaining, or injuring any goods or chattels, including actions of replevin.
6. Special actions on the case for criminal conversation, for libels, or for any other injury to the persons or rights of any, except such as are specified in the next two sections.

§ 1288. The following actions shall be commenced within four years after the cause of action accrued, and not after; actions for the recovery of any debt founded upon any contract, obligation, or liability, where the cause of action has arisen in any foreign country, except such as are brought upon the judgment or decree of a court of record.

§ 1289. The following actions shall be commenced within two years after the cause of action accrued, and not after:

1. Actions for assault and battery;
2. Actions for false imprisonment;

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3. Actions for words spoken slandering the character or title of any person;

4. Actions for words spoken whereby special damages are sustained;

5. Actions against the chief sheriff, sheriffs, or other officers, for the escape of prisoners, or upon any liability incurred by them by the doing any act in their official capacity, or by the omission of any official duty.

§ 1290. In all actions of debt, account, or assumpsit, brought to recover any balance due upon a mutual, open, and current account, the cause of action shall be deemed to have accrued from the time of the last item proved in such account.

§ 1291. If any person entitled to bring any action in this chapter specified (excepting actions against the chief sheriff, sheriffs, or other officers) shall, at the time the cause of action accrued, be either—

1. Within the age of twenty years; or,

2. Insane; or,

3. Imprisoned on a criminal charge, or in execution under the sentence of a criminal court for a term less than his natural life; or,

4. A married woman;

Such persons shall be at liberty to bring such actions within the respective times in this chapter limited, after such disability removed.

§ 1292. If any person entitled to bring any action in this chapter specified shall die before the expiration of the time herein limited for the commencement of such suit, if such cause of action shall survive to his representative, his executors or his administrators may, after the expiration of such time and within one year after such date, commence such action, but not after that period.

§ 1293. If at any time when any cause of action specified in this chapter shall accrue against any person he shall be out of the Territory, such action may be commenced within the terms herein respectively limited after the return of such person into this Territory; and if, after such cause of action shall have accrued, such person shall depart from and reside out of this Territory, the time of his absence shall not be deemed or taken as any part of the time limited for the commencement of such action.

§ 1294. Whenever the commencement of any suit shall be stayed by an injunction of any court of equity, the time during which such injunction shall be in force shall not be deemed any portion of the time in this chapter limited for the commencement of such suit.

§ 1295. When a suit shall be alleged by a plaintiff to have been commenced within the time required by law and such allegation shall be put in issue by the defendant, it shall be competent for the defendant to prove on the trial that the process issued by the plaintiff was not issued with the intent or in the manner required by law, or that any means whatever were used by the plaintiff or his attorney to prevent the service of the writ or to keep the defendant in ignorance of the issuing thereof.

§ 1296. Upon any such matter being established, or upon its appearance in any other way that any process was issued without any intent that it should be served, such process shall not be deemed the commencement of a suit within the meaning of the provisions of this chapter.

§ 1297. No person shall avail himself of any disability enumerated in this chapter unless such disability existed at the time his right of his action accrued.

§ 1298. Where there shall be two or more such disabilities existing at the time the right of action accrued, the limitations herein prescribed shall not attach until all such disabilities be removed.

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§ 1299. The provisions of this chapter shall not extend to any action which is, or shall be, limited by any statute to be brought within a shorter time than is herein prescribed; but such action shall be brought within the time limited by such statute.

§ 1300. If any person who is liable to any of the actions mentioned in this article shall fraudulently conceal the cause of such action from the knowledge of the person entitled thereto, the action may be commenced at any time within six years after the person who is entitled to bring the same shall discover that he has such cause of action, and not afterwards.

§ 1301. All the provisions of this chapter shall apply to the case of any debt on contract alleged by way of set-off on the part of a defendant, and the time of limitation of such debt shall be computed in like manner as if an action had been commenced therefor at the time when the plaintiff's action commenced.

§ 1302. Every judgment and decree, in any court of record of this Territory, shall be presumed to be paid and satisfied at the expiration of twenty years after the judgment or decree was rendered.

§ 1303. When a cause of action has arisen in any foreign country, and by the laws thereof an action thereon cannot there be maintained against a person by reason of the lapse of time, an action thereon shall not be maintained against him in this Territory, except in favor of a domiciled resident thereof, who has held the cause of action from the time it accrued.

§ 1304. No suit brought for the recovery of any debt contracted after the promulgation of this section for spirituous liquors sold or furnished to any person, by any licensed retail dealer in such liquors, shall be maintained in any court of this Territory.

Actions to Recover the Possession of Land.

§ 1305. No person shall commence an action to recover possession of any lands, or make any entry thereon, unless within ten years after the right to bring such action first accrued.

§ 1306. If such right first accrued to any ancestor or predecessor of the person bringing such action or making such entry, or to any persons from, by, or under whom he claims, the said ten years shall be computed from the time when the right first accrued to such ancestor, predecessor, or other person.

§ 1307. In the construction of sections 1305–1313 the right to make an entry or commence an action shall be deemed to have first accrued at the times respectively hereinafter mentioned, that is to say:

First. When any person shall be disseized, his right of entry or action shall be deemed to have accrued at the time of such disseizin.

Secondly. When he claims as heir or devisee of one who died seized, his right shall be deemed to have accrued at the time of such death, unless there is an estate by the curtesy or in dower, or some other estate intervening after the death of such ancestor or devisor, in which case his right shall be deemed to have accrued when such intermediate estate shall expire, or when it would have expired by its own limitation.

Thirdly. When there is such an intermediate estate, and in all other cases where a party claims in remainder or reversion, his right, so far as it is affected by the limitation herein prescribed, shall be deemed to accrue when the intermediate or precedent estate would have expired by its own limitation, notwithstanding any forfeiture thereof, for which he might have entered at an earlier time.

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Fourthly.—The preceding clause shall not prevent any person from entering, when entitled to do so, by reason of any forfeiture or breach of condition, but if he claims under such a title, his right shall be deemed to have accrued when such forfeiture was incurred or condition broken.

Fifthly.—In the cases not otherwise specially provided for, the right shall be deemed to have accrued when the claimant, or the person under whom he claims, first became entitled to the possession of the premises under the title upon which the entry or action is founded.

§ 1308. If, when such right of entry or of action shall first accrue as aforesaid, the person entitled to such entry or action shall be within the age of twenty years, or insane, or imprisoned, such person, or anyone claiming from, by, or under him, may make the entry or bring the action at any time within five years after such disability shall be removed, notwithstanding the ten years before limited in that behalf shall have expired.

§ 1309. If the person first entitled to make such entry or bring such action shall die during the continuance of any of the disabilities mentioned in the preceding section, and no determination or judgment shall have been had of or upon the title, right, or action which accrued to him, the entry may be made or the action brought by his heirs, or any other person claiming from, by, or under him, at any time within five years after his death, notwithstanding the said ten years shall have expired.

§ 1310. If, when such right of action shall first accrue, the person entitled thereto shall be under any of the disabilities before mentioned, and shall die without having recovered the premises, no further time for making such entry or bringing such action, beyond what is hereinbefore prescribed, shall be allowed by reason of the disability of any other person.

§ 1311. No person shall be deemed to have been in possession of any lands, within the meaning of this chapter, merely by reason of having made an entry thereon, unless he shall have continued in open and peaceable possession of the same for the space of one year after such entry; or unless an action shall have been commenced upon such entry within one year after ouster.

§ 1312. Sections 1305–1313 shall take effect from and after the first day of January, A. D. 1899: Provided that action may be commenced upon any such right then existing, and which would otherwise be barred by the provisions of said sections, within one year from said date, and the same may be carried to final determination under the provisions of chapter 22 of the session laws of 1870 as heretofore existing; provided also that nothing herein shall be construed to extend the time within which any such action may be brought under said provisions.

§ 1313. If any action, of which the commencement is limited by sections 1305–1313, shall be abated by the death of any party thereto, or if, after verdict, the judgment shall be arrested, or if the judgment be reversed on error, the party bringing the action or any person claiming by, through, or under him, may bring a new action for the same cause, within one year after the determination of the original action, on the reversal of the judgment thereon.

NOTE TO CHAPTER 88.

§ 1287 is C. L., § 1036; § 1288 is S. L. 1892, ch. 26; §§ 1289–1302 are C. L., §§ 1037–1051; § 1303 is C. L., § 1167; § 1304 is S. L. 1865, C. L., p. 511; §§ 1305–1313 are S. L.

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1870, ch. 22, C. L., p. 540, but §§ 1305, 1306, 1308, 1309, 1312 are as amended by S. L. 1898, Oct. 19.

Cases in Hawaiian Reports: Pustan v. Rixman, 2 Haw., 730; Kahoomana v. Minister, 3 Haw., 635; Akowai v. Lupong, 4 Haw., 259; Kalakaua v. Keaweamahi, 4 Haw., 571, 577; Kaia v. Kamaile, 4 Haw., 352; Beckley v. Afong, 6 Haw., 547; Ahlo v. Hayselden, 8 Haw., 440; Defries v. Cartwright, 10 Haw., 249.

CHAPTER 89.

THE PREVENTION OF FRAUDS AND PERJURIES IN CONTRACTS, AND IN ACTIONS FOUNDED THEREON.

§ 1314. No action shall be brought and maintained in any of the following cases:

First. To charge an executor or administrator, upon any special promise to answer damages out of his own estate;

Second. To charge any person upon any special promise to answer for the debt, default, or misdoings of another;

Third. To charge any person, upon an agreement made in consideration of marriage;

Fourth. Upon any contract for the sale of lands, tenements or hereditaments, or of any interest in or concerning them;

Fifth. Upon any agreement that is not to be performed within one year from the making thereof;

Unless the promise, contract or agreement, upon which such actions shall be brought, or some memorandum or note thereof, shall be in writing, and be signed by the party to be charged therewith, or by some person thereunto by him lawfully authorized.

§ 1315. The consideration of any such promise, contract or agreement need not be set forth, or expressed, in writing signed by the party to be charged therewith, but may be proved by any other legal evidence.

§ 1316. No action shall be brought and maintained to charge any person upon, or by reason of, any representation or assurance, made concerning the character, conduct, credit, ability, trade or dealings of any other person, unless such representation or assurance shall be made in writing and signed by the party to be charged thereby, or by some person thereunto by him lawfully authorized.

§ 1317. No contract for the sale of any goods, wares, or merchandise, for the price of one hundred dollars or more, shall be allowed to be good, unless the purchaser shall accept part of the goods, so sold, and actually receive the same, or give something in earnest to bind the bargain, or in part payment, or some note or memorandum, in writing, of the said bargain be made and signed by the party to be charged by such contract, or by his agent, thereunto by him lawfully authorized.

§ 1318. When any person, who is bound by a contract in writing to convey any real estate, shall die before making the conveyance, the other party may have a bill in equity in the supreme court to enforce a specific performance of the contract by the heirs, devisees, or by the executor or administrator of the deceased party, such bill to be filed within one year after the grant of administration.

§ 1319. The court shall hear and decide every such case, according to the proceedings in chancery, and shall make such decree therein as justice and equity may require.

§ 1320. If it shall appear that the plaintiff is entitled to have a deed of conveyance, the court may authorize and require the executor or administrator of the deceased party to convey the estate in like manner as the deceased person might and ought to have done, if living;

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and if his heirs or devisees or any of them are within the Territory and competent to act, the court may direct them or any of them, instead of the executor or administrator, to convey the estate in the manner before mentioned, or to join with the executor or administrator in such conveyance.

§1321. Every conveyance made in pursuance of such decree shall be effectual to pass the estate contracted for as fully as if made by the contractor himself.

§1322. If the defendant in such suit shall neglect or refuse to make a conveyance according to the decree, the court may enter judgment that the plaintiff shall recover judgment for possession of the land contracted for, to hold according to the terms of the intended conveyance, and may issue a writ of seizin thereupon; and the plaintiff, by force of said writ, having obtained possession of the premises, shall hold the same in like manner as if conveyed in pursuance of the decree.

§1323. The preceding section shall not prevent the court from enforcing their decree, by any other process, according to chancery proceeding.

§1324. If the person to whom the conveyance was to be made shall die before such suit is brought, or before the conveyance is completed, any person who would be entitled to the estate under him as heir, devisee or otherwise, in case the conveyance had been made according to the contract, may commence such suit, or prosecute it if commenced; and the conveyance shall thereupon be so made as to vest the estate in the same persons who would have been so entitled to it.

§1325. If the party to whom any such conveyance was to be made, or those claiming under him, shall not commence a suit, as before provided, and if the heirs of the deceased party are under age, or otherwise incompetent to convey the lands contracted for, the executor or administrator of the deceased may file a bill in equity in the supreme court, setting forth the contract and the circumstances of the case, whereupon the court may, by its decree, authorize and require such executor or administrator to convey the estate in the manner the deceased should have done; and such a conveyance shall be deemed a performance of the contract on the part of the deceased, and sufficient to entitle his heirs, executors, or administrators to demand a performance thereof on his part.

NOTE TO CHAPTER 89.

§§1315–1325 are C. L. §§1053–1064.

Cases in Hawaiian Reports: Brown v. Koloa, 5 Haw., 68; Hackfeld v. Akina, 6 Haw., 114; Apolo v. Kano, 7 Haw., 756; Opunui v. Kauhi, 8 Haw., 649; Ice Co. v. Electric Co., 9 Haw., 436; Harrison v. Gear, 10 Haw., 395.

CHAPTER 90.

JURIES AND TRIAL BY JURY.

DRAWING OF JURIES.

§ 1326. A clerk of court, in concert with a circuit judge, shall prepare semiannually, in the months of March and September, a list of the names of one hundred persons in the first circuit, and of fifty persons in each of the other circuits, residing within their respective circuits who, in the opinion of such clerk or judge, are fit to serve as jurors. Each list shall be signed by the clerk and judge. Said clerks shall write each name on a separate piece of paper, and deposit the same in appropriate boxes.

[§ 1327.]

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§ 1328. The respective clerks, at least twenty days before the sitting of any court, shall draw from the appropriate box the names of thirty-six jurors in the first circuit, and twenty-four in each of the other circuits. Such drawing shall be had in the presence of a circuit judge, who shall certify to the regularity of the proceedings.

[§ 1329.]

§ 1330. The clerks shall, within twenty-four hours of the drawing of any jurors as aforesaid, transmit to the chief sheriff of the Territory, or the sheriff of the island, the names of all jurors drawn in the manner aforesaid, in order that such jurors may be duly summoned.

[§ 1331.]

[§ 1332.]

§ 1333. At the trial of any case requiring a jury, in any circuit court, the clerk of the court shall draw such jury, to the number of twelve, from the box containing the names of such persons as have been duly summoned to attend as jurors, and if any of the said twelve be challenged and set aside, he shall continue to draw from said box until twelve impartial jurors are obtained, when they shall be sworn as the jurors for the trial of such cause.

§ 1334. Whenever from any cause a less number than twenty-four properly qualified jurors out of any panel are in attendance at any term of the circuit court in any circuit, or whenever during the term of any circuit court, for any reason, the available number of properly qualified jurors from either panel now authorized by law is less than twenty-four, the circuit judge, together with a clerk of court, may forthwith, in the discretion of such judge, draw from the circuit at large in the manner provided in section 1335 a new panel, or a sufficient number to make up a panel of thirty-six in the first circuit and twenty-four in the other circuits; and the persons so drawn shall serve for the remainder of the term for which they were drawn, together with the qualified members of the old panel, if any.

§ 1335. Such circuit judge, together with a clerk of the circuit court or of the judiciary department, shall draw such additional panel as follows: Such judge shall select the names of fifty persons; and from said fifty shall draw by lot so many names as may be required to make the panel full.

§ 1336. The circuit judges may draw successive panels in the manner aforesaid as many times as may be necessary.

§ 1337. Whenever a sufficient number of jurors, regularly summoned, do not appear, or can not be obtained, to form a jury in any case, civil or criminal, in the circuit court of the first circuit, the court may order the chief sheriff to summon talesmen. Two talesmen may be summoned from among the bystanders, if no objection is made by any party to the cause. If more than two talesmen should be required, or if objection be made to summoning any bystander, the clerk shall draw such number of names as may be required from a box containing all the remaining names of the one hundred last semiannually selected as jurors by the clerk, in concert with some judge, as provided by law. Whenever said list shall be exhausted before proceeding with the trial of the cause before the court, a new list of fifty names shall be prepared in the manner provided by law, and such talesmen as may be required shall be drawn by the clerk from such list. And new lists of fifty names shall be prepared from time to time, as may be required. The persons whose names are so drawn shall be forthwith summoned to appear as jurors in the cause on trial.

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§ 1338. The chief sheriff or his deputy shall summon the number so ordered, and return their names into court. Every person so summoned shall attend forthwith and serve as a juror, unless excused by the court; and for every neglect or refusal so to attend shall be answerable to the court in the same manner as jurors regularly summoned as hereinbefore provided. The persons as summoned shall be subject to challenge as other jurors.

[§ 1339.]

§ 1340. In the several other circuit courts of the Territory, whenever a sufficient number of jurors duly summoned do not appear, or whenever from challenges or other causes a sufficient number of the regular panel can not be obtained for the trial of any case or cases, the court may order the sheriff or any of his deputies to summon from among the bystanders or from the circuit at large so many persons to serve as jurors as shall be sufficient.

[§ 1341.]

§ 1342. In all cases, civil or criminal, either party may challenge any juror drawn for such trial, for cause to be assigned to the presiding judge, who may determine the validity of the objection urged against the competency of such juror, or submit the question to the determination of three triors to be appointed by him.

§ 1343. In addition to the challenges of jurors allowed in section 1342, the government in criminal cases, and the plaintiff and defendant in all trials by jury, civil or criminal, except as provided in section 1344, shall each be allowed to peremptorily challenge three jurors without assigning any reason therefor; but where there are several parties on either side they must join in such challenges.

§ 1344. Any person who is put on trial for an offense for which, if convicted thereof, such person may be punished with death or imprisonment for life, shall be allowed to challenge peremptorily twelve of the persons called as jurors, and no more; and the attorney appearing for the government in such case shall be allowed to challenge peremptorily six of the persons called as jurors, and no more.

§ 1345. No jury for the trial of any case, civil or criminal, shall be less than twelve in number; but when nine of such jury shall agree upon a verdict, they may render the same, and such verdict shall be as valid and binding upon the parties as if rendered by all twelve.

§ 1346. Whenever any jury shall return into court and state that they can not agree upon a verdict, the court may, in its discretion, discharge such jury, or remand them to the jury room for further deliberation.

[§ 1347–1354.]

[§§ 1353–1354.]

§ 1355. The jury shall in all cases be the exclusive judges of the facts in suits tried before them, and the judge or justice presiding at any jury trial (hereinafter named the court) shall in no case comment upon the character, quality, strength, weakness, or credibility of any evidence submitted, or upon the character, attitude, appearance, motive, or reliability of any witness sworn in a cause: Provided, however, That nothing herein shall be construed to prohibit the court from charging the jury whether there is or is not evidence (indicating the evidence) tending to establish or to rebut any specific fact involved in the cause, nor shall it be construed to prohibit the setting aside of a verdict rendered by such jury, in a proper case, as being against the weight of evidence and the granting of a new trial therein.

§ 1356. Unless the parties to the cause on trial, either in person or

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through their attorneys, shall file therein their written consent that the court may charge the jury orally, it shall be the duty of the court, except as provided in the next succeeding section, to reduce to writing and read its charge to the jury; and the manuscript of such charge, signed by the court, shall be filed in the cause and shall constitute a part of the record thereof. Whenever and as often as the court shall depart from such duty either party to such suit shall be entitled, as a matter of right, to demand and have granted a new trial of such cause.

§ 1357. In cases where an official stenographer is present and taking notes of the trial proceedings it shall not be necessary for the court to reduce its charge to writing, but such charge may be orally given and noted by such stenographer. It shall be the duty of the stenographer in such case to transcribe his notes of such charge within one week thereafter, and to file the same, duly certified in said cause; and such transcript may thereafter be used and referred to in like manner as though the same had been written, charged, and filed by the court, as provided in the last preceding section: Provided, however, That if the accuracy of such transcript shall be disputed by either party and a protest against the acceptance of the part or parts thereof which shall be claimed to be inaccurate shall be filed by such party, it shall be the duty of any appellate court before whom such cause shall come for review (unless the parties thereto shall by written stipulation compose such dispute), to first find and declare the true rendering of such part of the charge of the lower court as shall be involved in such dispute and protest.

§ 1358. It shall be the duty of the counsel for the respective parties to a cause to furnish the court with a written memorandum of their request for the charging of the jury upon the points of law involved therein, and it shall not be incumbent upon the court, in cases where the parties are so represented by counsel, to charge the jury upon the law, unless thereto so requested in writing. But in case either party shall be unrepresented by counsel, the court shall charge the jury on his behalf, and the court may, of its own motion, charge the jury upon any point of law involved in the trial.

§ 1359. Where requests for instructions are presented, as hereinbefore provided, an argument thereon may be made by the respective counsel previous to the court passing thereon. Whenever instructions are asked which the court can not give, he shall, in the margin thereof, write the word "refused," and such instructions as the court approves he shall designate by writing in the margin the word "given." It shall also be competent for the court to modify an instruction so requested, and to give it in its modified form, but in such manner that it shall distinctively appear what instruction was given and what refused, in whole or in part. All written requests for instructions shall be filed in the cause, and shall form a part of the record therein; and the court shall in no case orally qualify, modify, or explain the same to the jury.

§ 1360. Upon the trial by jury of any civil case except in action for slander, libel, criminal conversation, seduction, malicious arrest, malicious prosecution, and false imprisonment, the court, by the consent of parties, instead of directing the jury to give a general verdict, may direct the jury to answer any questions of fact stated to them by the court for that purpose, and in such case the jury shall answer such questions and shall not give any verdict, and on the finding of the jury on the questions which they answer, the court shall enter the verdict, and the verdict so entered shall be as effectual, and shall

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be open to the same objections and modes of attack (if moved against) as if the same had been the verdict of the jury.

§ 1361. In the challenging of jurors, the following order and sequence shall be observed, namely: The plaintiff, in civil actions, and the government, in criminal cases, shall first challenge for cause, after which the defendant or defendants shall challenge for cause. After the challenges for cause, if any, shall have been determined, the government or plaintiff (as the case may be), and the defendant, shall alternately state their peremptory challenges, if any, the government or plaintiff beginning and the defendant ending. In case there shall be two or more defendants in any criminal case, they shall not be obliged to join in any challenge, but they shall each be permitted to challenge separately as many jurors as the law shall allow to any separate or sole defendant under like circumstances. The order of precedence of their challenges, if not agreed upon by them, shall be determined by the court.

§ 1362. At the close of the evidence (unless the court shall direct a nonsuit, or order a verdict for the defendant), the respective parties, or their counsel, shall be entitled to sum up the facts to the jury. In their addresses to the jury they shall be allowed ample scope and latitude for argument upon, and illustration of any and all facts involved in the cause, and of the evidence tending to either prove or disprove the same. They shall not be forbidden to argue the law of the case to the jury, but they shall not assume to instruct the jury upon the law, in such manner as to encroach upon the function of the court to so instruct the jury.

§ 1263. The government or plaintiff, as the case may be, shall be entitled to open the case to the jury and to present the proofs. If the defendant shall present any evidence, he or his counsel, shall first, after the close of the evidence, address the jury upon the facts, after which the opposite side shall be entitled to the closing argument upon the facts.

NOTE TO CHAPTER 90.

§ 1326 is S. L. 1870, ch. 17, C. L., p. 358. § 1327 is S. L. 1888, ch. 37, § 5. §§ 1328–1330 are S. L. 1870, ch, 17, C. L., p. 358. §§ 1331–1333 are C. L., §§ 1196–1198. §§ 1334–1326 are L. R., act 2. § 1337 is S. L. 1890, ch. 26. § 1338 is C. L., § 1200. §§ 1339–1341 are S. L., 1892, ch. 7. § 1342 is C. L., § 1202. §§ 1343–1344 are S. L. 1888, ch. 24. §§ 1345–1352 are C. L., §§ 1203–1211. §§ 1353–1354 are S. L. 1865, C. L., p. 362. §§ 1355–1363 are S. L. 1892, ch. 56.

Cases in Hawaiian Reports: R. v. Cornwell, 3 Haw., 165; R. v. Camacho, 3 Haw., 385; Minister v. Loo Ngawk, 4 Haw., 439; Estate Queen Emma, 5 Haw., 501; R. v. Macfarlane, 7 Haw., 352; Ahlo v. Tai Lung, 9 Haw., 273; Govt. v. Gertz, 9 Haw., 290; R. v. Pahu, 10 Haw., 74; Dowsett v. Maukeala, 10 Haw., 166; R. v. Ah Ping, 10 Haw., 459; Goo Kim v. Holt, 10 Haw., 653.

CHAPTER 91.

EVIDENCE.

PART I.—MEANS OF OBTAINING EVIDENCE.

§ 1364. The clerks of the several courts of record shall issue to the attorney-general or to the chief sheriff or to any sheriff or deputy sheriff, and to any party plantiff or defendant, in any cause, civil or criminal depending before such courts respectively, or to the counsel of such party, writs of subpœna for witnesses, in blank, that the

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names of the witnesses to be summoned may be inserted after the issuing of such writ.

§ 1365. Such writs of subpœna shall be signed by the clerk or his deputy, and impressed with the seal of the court, and shall be obligatory upon the chief sheriff and his deputies, and upon the parties actually served therewith.

§ 1366. Upon nonattendance of witnesses duly summoned, the service of the writ being proved by the oath of the officer who served the same, the court shall have summary power to cause their attendance and to punish them for contempt.

§ 1367. The attorney-general or the sheriff on the several circuits may require of any judge of a court of record, at chambers, that witnesses material to the prosecution of any criminal indictment preferred, or about to be preferred, be bound by recognizance to appear and testify at the trial of such indictment, or that such witnesses be committed to jail for that purpose, and it shall be lawful for the judge, so applied to, to make any such order.

§ 1368. No person shall be bound to attend as a witness upon the trial of any civil cause in any court of record unless his traveling fees be paid or tendered to him at the time of the service of the subpœna.

§ 1369. Witnesses in criminal cases, whether for the prosecution or defense, shall not be entitled to any fees.

§ 1370. It shall be lawful for any court of record or any judge thereof in any action or suit depending in any such court, upon the application of any of the parties to such action or suit, to order a commission to issue for the examination of witnesses residing in a foreign country, or in some other circuit than that in which the cause is pending, upon oath, by interrogatories or otherwise, and by the same or any subsequent order or orders to give all such directions touching the time, place, and manner of such examination, all other matters and circumstances connected with such examinations as may appear reasonable and just, and it shall be lawful for every person authorized to take the examination of witnesses by any rule, order, writ, or commission made or issued in pursuance of this chapter, and he is hereby authorized and required to take all such examinations.

§ 1371. It shall and may be lawful for the person or persons to be named in any such rule or order as aforesaid for taking any examination in pursuance thereof, and he and they are hereby required to make (if need be) a special report to the court wherein the action shall be depending touching such examination, and the conduct or absence of any witness or other person thereon or relating thereto, and the court out of which the commission issued is hereby authorized to institute such proceedings and make such order and orders upon such report as justice may require and as may be instituted and made in any case of contempt of that court.

§ 1372. The costs of every application for any rule or order to be made for the examination of witnesses under any commission by virtue of this chapter, and of the rule or order and proceedings thereupon, shall be costs in the cause unless otherwise directed either by the judge making such rule or order, or by the judge before whom the trial or enquiry of the cause may be had, or by the court wherein the action shall be depending.

§ 1373. Whenever by virtue of this chapter an examination of any witness has been taken before a judge of a court of record, or before the clerk or deputy clerk thereof, or any other person or persons as aforesaid, the depositions taken down by such examiner shall be returned

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to and filed and kept in the office of the clerk of the court from which the commission issued, and the office copies of such depositions may be given out to either party.

§ 1374. No examination or deposition to be taken by virtue of this chapter shall be read in evidence without the consent of the party against whom the same may be offered unless it shall appear to the satisfaction of the court, or person having by law or consent of parties, authority to hear, receive, and examine evidence that the examinant or deponent is such party, or is beyond the jurisdiction of the court, or is resident in another circuit, or dead, or unable from permanent sickness or other permanent infirmity to attend, in all or any of which cases the examinations and depositions certified under the hand of the commissioners or other person taking the same shall and may, without proof of the signature to such certificate, be received and read in evidence, saving all just exceptions.

§ 1375. On the trial of any issue joined or of any matter or question or on an enquiry arising in any suit, action, or proceeding in any court, or before any person having by law or by consent of parties authority to hear, receive, and examine evidence, any person who may happen to be present, and who by virtue of this chapter is competent to give evidence, may be called and required to give evidence and to produce any document, and if any such person when called and required as aforesaid shall not appear and give evidence and (if then able so to do) produce the document, he shall be subject to the same proceedings and liabilities as if he had been duly served with a writ of subpœna *ad testificandum* or *duces tecum*, or a summons, or other process, and had received his conduct money and payment for expenses and loss of time.

§ 1376. Either party to any suit or action depending in any court of record may call on the other party by notice to admit any fact or document, saving all just exceptions, and every such notice and admission respectively may be in the form contained in the first and second schedules to this chapter or to the like effect, and in case of refusal or neglect to admit the costs of proving the fact or document shall be paid by the party so neglecting or refusing, whatever the result of the case may be, unless at the hearing, trial, or inquiry the judge shall certify that the refusal to admit was reasonable, and no costs of proving any document shall be allowed unless such notice be given, except in cases where the omission to give the notice is in the opinion of the court or presiding judge at the trial of the cause a saving of expense.

§ 1377. An affidavit of the attorney, solicitor, or agent in the cause, or his clerk, of the due signature of any admissions made in pursuance of such notice and annexed to the affidavit, shall be in all cases sufficient evidence of such admissions, and an affidavit of the attorney, solicitor, or agent in the cause, or his clerk, of the service of any notice to produce in respect of which notice to admit shall have been given and of the time when it was served, with a copy of such notice to produce annexed to such affidavit, shall be sufficient evidence of the service of the original of such notice and of the time when it was served.

§ 1378. When a witness, whose testimony is wanted in any civil cause pending in this Territory, shall live on another island from that on which the trial is to be held, or shall be about to go out of the Territory and not return in time for the trial, or is so sick, infirm, or aged as to make it probable that he will not be able to attend at the trial his depositions may be taken in the manner hereinafter prescribed, at

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the option of the party instead of by commission as hereinbefore provided.

§ 1379. At any time after the cause is commenced by the service of process, or after it is submitted to arbitrators or referees, either party may apply to any district magistrate or any circuit judge or any clerk of a court of record, who shall issue a notice to the adverse party to appear before said district magistrate, circuit judge, or clerk of a court of record at the time and place appointed for taking the depositions, and to put such interrogatories as he may think fit.

§ 1380. The said notice shall be served on the agent or attorney of the adverse party, and shall have the same effect as if served on the party himself.

§ 1381. If there are several parties on either side of the cause, plaintiffs or defendants, a notice served on either of them shall be sufficient.

§ 1382. The notice shall be served by leaving a copy thereof at the place of abode of the person to be notified, allowing in all cases not less than twenty-four hours after such notice before the time appointed for taking the depositions, and not less than one day additional, exclusive of Sundays, for every twenty-five miles of travel of the opposite party if he shall live more than twenty-five miles from the place of taking the deposition.

§ 1383. The deponent shall be sworn or affirmed to testify the truth, the whole truth, and nothing but the truth relating to the cause for which the deposition is taken, and shall then be examined by the district magistrate, circuit judge, or clerk as aforesaid, or by the parties, and his testimony shall be taken in writing. The examination shall be either verbal or by written interrogatories.

§ 1384. The deposition shall be written by the officer before whom the deposition is taken, or by some impartial person by him appointed, in the presence and under the direction of the said officer, and shall be carefully read to or by the deponent, and shall then be subscribed by him.

§ 1385. The officer taking the deposition shall annex to the deposition a certificate of the time and manner of taking it, the person at whose request, and the cause or suit for which it was taken, and stating also whether the adverse party attended, and if not, stating the notice, if any, that was given to him.

§ 1386. The deposition shall be delivered by the officer taking the same to the court, arbitrators, or referees before whom the cause is pending, or shall be enclosed and sealed and directed to them, and shall remain sealed until opened by the direction of any justice of the said court, arbitrators, or referees.

§ 1387. Every objection to the competency or credibility of the deponent and to the propriety of any questions put to him, or any answers made by him, may be made when the deposition is produced in the same manner as if the witness were personally present and examined at the trial; and the court shall have the authority to order any testimony which is deemed inadmissible to be expunged, provided that if any deposition is taken upon written interrogatories all objections to an interrogatory shall be made before it is answered, and if the interrogatory is not withdrawn the objections shall be noted thereon, and otherwise the objection shall not be considered.

§ 1388. When the plaintiff in any suit shall discontinue it, or become nonsuited, and another suit shall afterwards be commenced for the same cause between the same parties or their representatives, all depositions and testimony lawfully taken and filed in court in any

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preceding suit may be used in the succeeding suit in like manner as if taken in the said suit.

§ 1389. Any witness may be summoned and compelled to give his depositions at any place on the island on which he has his abode in like manner and under the same penalties as he may be summoned and compelled to attend as witness in any court.

PART 2.—PERPETUATING TESTIMONY.

§ 1390. Whenever any person shall be desirous of perpetuating the testimony of any witness, he shall file a petition with the clerk of any court of record setting forth his claims, interest, or title in or to the subject on which he wishes to perpetuate evidence, and the names and places of residence of all other persons known to him as being interested therein, and the name or names of the witness or witnesses whom he proposes to examine, and praying from any judge of the court in which said petition is filed an order requiring the adverse party or parties to attend at a time and place in the order specified, that the testimony of such witness or witnesses may be taken for the purpose of being perpetuated.

§ 1391. If the petitioner expects to be a plaintiff in any future action he shall likewise set forth in his petition the obstacles preventing the immediate commencement of an action.

§ 1392. If the order is granted, the deposition or depositions shall be taken before some judge of the court in which the petition is filed, the same latitude of examination and cross-examination being allowed as if a suit were actually pending, and the judge having caused the deposition to be signed on each sheet by the witness, shall certify that the depositions have been properly taken, and shall order them to be filed with the clerk of the court.

§ 1393. If a trial shall afterwards be had between the parties named in the petition or their privies or successors in interest touching the matter of controversy set forth in the petition, the deposition filed in accordance with the provisions of the preceding sections shall be given in evidence by either party, where the witness or witnesses are insane or dead, or their attendance or oral examination can not be required or obtained; provided, however, that such depositions shall be subject to the same objections for irrelevancy or incompetency as might be made to depositions pending an action.

§ 1394. The applicant shall pay all costs of all proceedings under this part of this chapter.

PART 3.—THE MEANS OF AFFORDING DISCOVERY TO LITIGANTS.

§ 1395. Either party to any action or suit depending in any court of record shall be at liberty to apply to the court, or any judge of the supreme court, for a rule or order for the inspection by himself or by his witnesses of any real or personal property, the inspection of which may be material to the proper determination of the question in dispute; and it shall be lawful for the court or any such judge, if they or he think fit, to make such rule or order upon such terms as to costs and otherwise as such court or judge may direct.

§ 1396. Whenever any cause or other civil proceeding shall be pending in any court of record, such court or any judge of the supreme court may, on application made for such purpose by either of the litigants, compel the opposite party to allow the party making the application

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to inspect all documents in the custody or under the control of such opposite party relating to such cause or other proceeding, and, if necessary, to take examined copies of the same in all cases in which previous to the passing of this chapter a discovery might have been obtained in a court of equity, at the instance of the party so making the application as aforesaid.

§ 1397. Upon the application of either party to any cause or other proceeding in any court of record, upon an affidavit by such party of his belief that any document to the production of which he is entitled, for the purpose of discovery or otherwise, is in the possession or power of the opposite party, it shall be lawful for the court, or any judge of the supreme court, to order that the party against whom such application is made, or (if such party is a body corporate) that some officer to be named of such body corporate shall answer on affidavit, stating what documents he or they has or have in his or their possession or power, relating to the matters in dispute; or what he knows as to the custody they or any of them are in, and whether he or they objects or object (and if so on what grounds) to the production of such as are in his or their possession or power; and upon such affidavit being made, the court or judge may make such further order thereon as shall be just.

Part 4.—Documentary Evidence.

§ 1398. All proclamations and other acts of state of this Territory, or of any foreign state, and all judgments, decrees, orders, and other judicial proceedings of any court of justice in any part of this Territory, or in any foreign state, and all affidavits, pleadings, and other legal documents, wills, and codicils filed or deposited in any such court, may be proved in any court of justice or before any person having by law or by consent of parties authority to hear, receive, and examine evidence, either by examined copies or by copies authenticated as hereinafter mentioned—that is to say, if the document sought to be proved be a proclamation, treaty, or other act of state, the authenticated copy, to be admissible in evidence, must purport to be sealed with the great seal of this Territory or of the foreign state to which the original document belongs; and if the document sought to be proved be a judgment, decree, order, or other judicial proceeding of any court in this Territory or in any foreign state, or an affidavit, pleading, or other legal document, will, or codicil filed or deposited in any such court, the authenticated copy to be admissible in evidence must purport either to be sealed with the seal of such court or (in the event of such court having no seal) to be signed by the judge or (if there be more than one judge) by any one of the judges of the said court, and such judge shall attach to his signature a statement in writing on the said copy that the court whereof he is judge has no seal. But if any of the aforesaid authenticated copies shall purport to be signed or sealed as hereinbefore respectively directed, the same shall respectively be admitted in evidence in every case in which the original document could have been received in evidence without any proof of the seal, where a seal is necessary, or of the signature, or of the truth of the statement attached thereto, where such signature and statement are necessary, or of the judicial character of the person appearing to have made such signature and statement; and every such copy shall be *prima facie* evidence of the original thereof, in like manner as if such original were produced and proved in due course of law.

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§ 1399. Wherever in any legal proceedings whatsoever it shall be necessary to prove any grant of land, lease, or other conveyance of any Government land or real estate, it shall not be necessary to produce the original patent, grant, lease, or conveyance, but a certified copy thereof under the hand and official seal of the officer shall be received as evidence in any court, the same as the original instrument itself.

§ 1400. Every register of a vessel kept under any of the laws, now or hereafter to be in force relating to the registry of Hawaiian vessels, may be proved in any court, or before any person having by law, or by consent of parties, authority to hear, receive, and examine, either by the production of the original, or by an examined copy thereof, or by a copy thereof purporting to be certified under the hand of the person having charge of the original. And every such register or such copy of a register, and also every certificate of registry granted under any of such acts, and purporting to be signed as required by law, shall be received in evidence in any such court, or before any such person as aforesaid, as *prima facie* proof of all matters contained or recited in such register, when the register or any such copy thereof as aforesaid is produced, and of all the matters contained or recited in or endorsed on such certificate of registry, when the said certificate is produced.

§ 1401. Whenever in any legal proceeding whatsoever it may be necessary to prove the trial and conviction or acquittal of any person charged with any offense, it shall not be necessary to produce the record of the conviction or acquittal of such person or a copy thereof, but a certificate containing the substance and effect only (omitting the formal part) of the indictment, information, or presentment and conviction, or acquittal for such offense, purporting to be signed by the officer having the custody of the records of the court where the offender was convicted or acquitted, or by the deputy of such officer, shall upon proof of the identity of the person be sufficient evidence of the said conviction or acquittal, without proof of the signature or official character of the person appearing to have signed the same.

§ 1402. Whenever by any law now or hereafter to be in force, any certificate, official or public document or documents, or proceeding of any corporation, or joint stock or other company, or any certified copy of any document or by-laws, entry in any register or other book, or of any other proceeding shall be receivable in evidence of any particulars, the same shall respectively be admitted in evidence in any court, and by any person having by law or by consent of parties authority to hear, receive, and examine evidence, provided they respectively purport to be sealed or impressed with a stamp, or sealed and signed, or signed alone as required, or impressed with a stamp, and signed as directed by the respective acts made or to be hereafter made, without any proof of the seal or stamp where a seal or stamp is necessary, or of the signature or of the official character of the person appearing to have signed the same, and without any further proof thereof in every case in which the original record or document could have been received in evidence.

§ 1403. Whenever any book or other document is of such a public nature as to be admissible in evidence on its mere production from the proper custody, and no law exists which renders its contents provable by means of a copy, any copy thereof or extract therefrom shall be admissible in any court, or before any person having by law or by consent of parties authority to hear, receive, and examine evi-

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dence, provided it be proved to be an examined copy or extract, or provided it purport to be signed and certified as a true copy or extract by the officer to whose custody the original is intrusted.

§ 1404. The mere production of a newspaper purporting to contain public notices published by authority shall be *prima facie* evidence of the publication thereof on the day on which the same bears date. And where, by any law now or hereafter to be in force, the governor shall be authorized or empowered to do any act whatsoever, or where, by any such law, anything is required to be certified by the governor and published in any newspaper, proof of the said newspaper purporting to contain a copy or notification of any such act or certificate shall be *prima facie* evidence of such act or certificate having been duly done or given, and if such newspaper purports to contain any rule or by-law, regulation, matter, or thing allowed, confirmed, cancelled, or approved of, assented to or certified, it shall also be *prima facie* evidence of the purport and due making of such rule, regulation, by-law, matter, or thing.

§ 1405. All copies of the votes and proceedings of the legislature and of proclamations, if purporting to be printed by authority, shall be admitted as evidence thereof by all courts and persons having by law or by consent of parties authority to hear, receive, and examine evidence, without any proof being given that such copies were so printed.

§ 1406. The probate of a will or codicil, or letters of administration with the will or codicil annexed, shall be *prima facie* evidence of the original will or codicil, in like manner as if such original were produced and proved in due course of law.

§ 1407. Where any writing whatsoever shall have been copied, by means of any machine or press which produces a facsimile impression or copy of such writing, such impression or copy shall, upon proof to the satisfaction of the court or person having by law or by consent of parties authority to hear, receive, and examine evidence, that the same was taken or made from the original writing by means of such machine or press as aforesaid, be sufficient *prima facie* evidence of such writing without any proof that such impression or copy was compared with the said original thereof, and without any notice to produce such original.

§ 1408. Every examination and deposition taken by virtue of any law heretofore in force shall and may be read in evidence in the same manner as if this law had not been passed.

§ 1409. A transcript of any of the records and judicial proceedings of any court of record, or of any judge of a court of record at chambers, shall be admitted in evidence upon being authenticated by the attestation of the clerk of such court with the seal of such court annexed, or of the judge at chambers before whom the proceedings were had, with the seal aforesaid.

§ 1410. A transcript from the docket of any circuit judge at chambers, or of any district magistrate, of any judgment had before him, of the execution issued thereon, if any, and of the return to such execution, if any, when subscribed by said judge or magistrate shall be evidence to prove the facts stated in such transcript in any other court.

PART 5.—THE SUBSTITUTES FOR AN OATH.

§ 1411. Every court and person now or hereafter having by law or by consent of parties authority to hear, receive, and examine evidence

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is hereby empowered to administer an oath to all such witnesses as are legally called before them, respectively. But if any person called as a witness, or required or desiring to make an affidavit or deposition, shall refuse or be unwilling from alleged conscientious motives to be sworn, it shall be lawful for the court or person having by law or by consent of parties authority to hear, receive, and examine evidence, or for any judge or person qualified to take affidavits or depositions, upon being satisfied of the sincerity of such objection, to permit such person, instead of being sworn, to make his solemn affirmation or declaration in the words following, that is to say: "I, ——— ———, do solemnly, sincerely, and truly affirm and declare that the taking of any oath is, according to my religious belief, unlawful, and I do now also solemnly, sincerely, and truly affirm and declare that the evidence," &c. Which solemn affirmation and declaration shall be of the same force and effect as if such person had taken an oath in the usual form.

PART 6.—PERSONS WHOSE EVIDENCE MAY BE RECEIVED.

§ 1412. No person offered as a witness shall hereafter be excluded by reason of incapacity from crime (perjury or subornation of perjury only excepted) or interest from giving evidence, either in person or by deposition, according to the practice of the court, on the trial of any issue joined or of any matter or question, or on any enquiry arising on any suit, action, or proceeding in any court, or before any person having by law or by consent of parties authority to hear, receive, and examine evidence. But every person so offered may and shall be admitted to give evidence, notwithstanding that such person may or shall have an interest in the matter in question, or in the event of the trial of any issue, matter, question, or enquiry, or of the suit, action, or proceeding in which he is offered as a witness, and notwithstanding that such person offered as a witness may have been previously convicted of any crime or offense, except as aforesaid.

§ 1413. On the trial of any issue joined, or of any matter or question, or on any enquiry arising in any suit, action, or proceeding in any court, or before any person having by law or by consent of parties authority to hear, receive, and examine evidence, it shall be lawful for such court or person to receive the evidence of any minor, notwithstanding he may be destitute of the knowledge of God and of any belief in religion or in a future state of rewards and punishments: Provided, always, That the evidence of such minor shall be given upon his affirmation or declaration to tell the truth, the whole truth, and nothing but the truth, or in such other form as may be approved of and allowed by such court or person as first aforesaid, and after he shall have been cautioned by such court or person that he will incur and be liable to punishment if he do not tell the truth. Provided, also, that no such evidence shall in any case be received unless it shall be proved to the satisfaction of such court or such person that such minor perfectly understands the nature and object of such declaration or affirmation as aforesaid, and the purpose for which his testimony is required.

§ 1414. On the trial of any issue joined, or of any matter or question, or on any enquiry arising in any suit, action, or proceeding in any court or before any person having by law or consent of parties authority to hear, receive, and examine evidence, and parties thereto, and the party on whose behalf any such action, suit, or proceeding

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may be brought or defended, and the husbands and wives of such parties and persons, respectively, shall (except as hereinafter excepted) be competent and compellable to give evidence, either in person or by deposition, according to the practice of the court, on behalf of either or any of the said suit, action, or proceeding.

§ 1415. The defendant in any criminal proceeding may give evidence on his own behalf, and thereupon be subject to cross-examination in like manner as any other witness, but in case any such person shall neglect or decline to offer himself as a witness, no inference shall be drawn prejudicial to such accused by reason of such neglect or refusal, nor shall any argument be permitted tending to injure the defense of such accused person on account of such failure to offer himself as a witness.

PART 7.—PRIVILEGES, DISABILITIES, AND OBLIGATIONS OF WITNESSES.

§ 1416. Nothing herein contained shall render any person who in any criminal proceeding is charged with the commission of any indictable offense, or any offense punishable on summary conviction, compellable to give evidence for or against himself; or (except as hereinafter mentioned) shall render any person compellable to answer any question tending to criminate himself, or shall in any criminal proceeding render any husband competent or compellable to give evidence against his wife, or any wife competent or compellable to give evidence against her husband, except in such cases where such evidence may now be given; provided, also, that in all criminal proceedings the husband or wife of the party accused shall be a competent witness for the defense.

§ 1417. No husband shall be compellable to disclose any communication made to him by his wife during the marriage, and no wife shall be compellable to disclose any communication made to her by her husband during the marriage.

§ 1418. No clergyman of any church or religious denomination shall, without the consent of the person making the confession, divulge in any action, suit, or proceeding, whether civil or criminal, any confession made to him in his professional character according to the uses of the church or religious denomination to which he belongs, and no physician or surgeon shall, without the consent of his patient, divulge in any civil suit, action, or proceeding (unless the sanity of the patient be the matter in dispute) any information which he may have acquired in attending the patient, and which was necessary to enable him to prescribe or act for the patient.

§ 1419. No witness shall on the trial of any issue joined or of any matter or question, or on any enquiry arising in any suit, action, or proceeding, whether civil or criminal, be permitted to refuse to answer any question which is relevant and material to the matter in issue on the ground that the answer may expose him to any penalty or forfeiture, or may disgrace or criminate himself, unless the court or person having by law or by consent of parties authority to hear, receive, and examine evidence shall be of the opinion that the answer will tend to subject such witness to punishment for treason, felony, or misdemeanor.

PART 8.—THE MEANS OF DISCREDITING EVIDENCE.

§ 1420. A witness may be questioned as to whether he has been convicted of any indictable or other offense; and upon being so ques-

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tioned, if he either denies the fact or refuses to answer, it shall be lawful for the party so questioning to prove such conviction.

§ 1421. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character; but may contradict him by other evidence, or (in case the witness shall in the opinion of the court or person having by law or consent of parties authority to hear, receive, and examine evidence prove adverse) may by leave of such court or person prove that he has made at other times a statement inconsistent with his present testimony; but before such last-mentioned proof can be given, the circumstances of the supposed statement sufficient to designate the particular occasion must be mentioned to the witness, and he must be asked whether or not he has made such statement.

§ 1422. If a witness upon cross-examination as to a former statement made by him relative to the subject-matter of the cause or prosecution, and inconsistent with his present testimony, does not distinctly admit that he has made such statement, proof may be given that he did in fact make it; but before such proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he has made such statement.

§ 1423. A witness may be cross-examined as to previous statements made by him in writing or reduced into writing relative to the subject-matter of the cause or prosecution, without such writing being shown to him; but if it is intended to contradict such witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him: Provided always, That it shall be competent for the court or person having such authority as aforesaid, at any time during the trial or inquiry, to require the production of the writing for his inspection, and he may thereupon make such use of it for the purposes of the trial or enquiry as he shall think fit.

Part 9.—Miscellaneous Provisions.

§ 1424. All courts and all persons having by law or by consent of parties authority to hear, receive, and examine evidence, shall henceforth take judicial notice of the signature of every person who is, or shall be, or shall have been, cabinet minister, judge of the supreme court or of any circuit court, or clerk or deputy clerk of the supreme court or of any circuit court, the commissioners of the board to quiet land titles, or masters in chancery, provided such signature shall be attached or appended to any decree, order, certificate, affidavit, or other judicial or official document.

§ 1425. It shall not be necessary to prove by the attesting witness any instrument to the validity of which attestation is not requisite; and such instrument may be proved by admission or otherwise as if there had been no attesting witness thereto.

§ 1426. Comparison of a disputed writing with any writing proved to the satisfaction of the court or person having such authority as aforesaid to be genuine, shall be permitted to be made by witnesses; and such writings and the evidence of witnesses respecting the same may be submitted to such court or person and the jury or assessors (if any) as evidence of the genuineness or otherwise of the writing in dispute.

§ 1427. No confession which is tendered in evidence on any trial

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shall be rejected on the ground that a promise or threat has been held out to the person confessing, unless the judge or other presiding officer shall be of opinion that the inducement was really calculated to cause an untrue admission of guilt to be made; nor shall any confession which is tendered in evidence on any trial be rejected on the ground that it purports to have been made on oath, if proof can be given to the judge or other presiding officer that in fact it was not so made.

§ 1428. From and after the coming into operation of this chapter it shall not be lawful for any justice or other person to administer or cause or allow to be received any oath or affidavit touching any matter or thing whereof such justice or other person hath not jurisdiction or cognizance by some law in force at the time being; but nothing in this section shall be construed to extend to any oath, solemn affirmation, or affidavit before any justice in any matter or thing touching the preservation of the peace, or the prosecution, trial, or punishment of offenses, or touching any enquiry held before any justices in the nature of coroner's inquests respecting sudden deaths, or touching any proceedings before the legislature or any committee thereof, nor to any oath or affidavit which may be required by the laws of any foreign country, to give validity to instruments in writing designed to be used in such foreign countries.

§ 1429.

SCHEDULES.

FIRST SCHEDULE.

In the ————
Between A. B.————, plaintiff,
and C. D.————, defendant.

Take notice, that the ——— proposes to prove the several facts and documents hereunder specified, and that such documents may be inspected by the plaintiff (or defendant), his attorney, or agents, at ——— on ——— next, between the hours of —— and —— o'clock, and that the plaintiff (or defendant) is hereby required within forty-eight hours from the last-mentioned hour to admit the said several facts, and that such of the said documents as are specified to be originals were respectively written, signed, or executed as they purport, respectively, to have been, that such as are specified to be copies, are respectively true copies, and such copies as are stated to have been served, sent, or delivered were so served, sent, or delivered, respectively, saving all just exceptions to the admissibility of all such facts and documents as evidence in this cause.

Dated this ——— day of ———— 18—.
G. H., attorney or agent for, etc.
To Mr. ————, the attorney or agent.

ORIGINALS.

Description of documents.	Date.
1. An agreement signed by the plaintiff, John Doe.	1st January, 1860.
2. A letter from the defendant to the plaintiff.	1st February, 1860.

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COPIES.

Description of documents.	Date.	Original or duplicate served, sent, or delivered, when, how, or by whom.
1. Letter from plaintiff to defendant.	1st January, 1860.	Sent by post on the same day.

FACTS.

1. That the above-named John Doe was authorized by the defendant to sign the above-mentioned agreement on his behalf.
2. That John Jones died on the 1st day of March, 18—, intestate.
3. That John Smith was, at the commencement of this suit, heir at law of the said John Jones.

SECOND SCHEDULE.

I hereby admit the originals numbered 1, the copies numbered 1, and the facts numbered 2.

A. B., *Defendant's Attorney.*

NOTE TO CHAPTER 91.

§§ 1364–1429 are S. S. 1876, ch. 32, C. L., p. 363.
Cases in Hawaiian Reports:
§ 1372, Foster v. Hayward, 9 Haw., 563.
§§ 1395, 1397, Govt. v. Brown, 6 Haw., 753.
§ 1412, Pahukula v. Parke, 6 Haw., 211.
§ 1413, R. v. Ah Wong, 10 Haw., 524.
§ 1414, Briggs v. Mills, 4 Haw., 450.
§ 1416, R. v. Kahakauila, 10 Haw., 28.
§ 1420, Govt. v. Aloiau, 9 Haw., 400.
§ 1427, R. v. Hong Cheong, 10 Haw., 94.

CHAPTER 92.

APPEALS AND EXCEPTIONS.

APPEALS.

§ 1430. Appeals shall be allowed from all decisions of district magistrates in all matters, whether civil or criminal, to the circuit court of the same circuit, whenever the party appealing shall file notice of his appeal within five days, and shall pay the costs accrued within ten days, and, if it is a civil cause, shall deposit a sufficient bond in the sum of one hundred dollars conditioned for the payment of the costs further to accrue in case he is defeated in the court above, or money to the same amount within ten days after the decision appealed from: Provided, however, That if in his notice of appeal he signifies his desire to waive a jury, he shall only be required to deposit as surety for further costs a bond in the sum of twenty dollars, or money to the same amount. And in such case, if it is a civil cause, if the appellee, or any appellee in the cause, shall desire to have it tried before a jury on appeal, he shall not be denied if he shall, within twenty days after the decision appealed from, file his motion to that effect in the circuit court, and shall deposit his bond or money in the sum of one hundred dollars for the payment of costs to accrue in case he is defeated in the court above. But in case such waiver of jury by the appellant is not objected to by any appellee, as signified by his motion for a trial

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by jury, as aforesaid, the cause shall be tried without a jury, and may be tried by the circuit judge in vacation by agreement of parties. And after the trial and conclusion of such cause on appeal, whether by verdict of a jury or by the decision of the circuit judge, jury being waived as aforesaid, there shall in such cause be no further trial of the issue of fact (unless a new trial of such cause shall be awarded according to law), but exceptions upon questions of law may be taken to the supreme court: And further provided, That any appeal solely upon points of law from a decision of a district magistrate shall be so stated in the notice of appeal, and such appeals upon points of law may be made either to the circuit court of the same circuit, or to the supreme court, at the option of the party appealing, and such appeal shall be heard and determined without the intervention of a jury; and the bond shall be the same as hereinbefore provided in the case of waiver of jury.

§ 1431. If the appeal shall be in a criminal cause other than a capital case, the appellant may in his notice of appeal signify his desire to waive the trial of such appeal by a jury, or when any such cause is called for trial before a jury the appellant may in open court waive a trial by jury. In case of the waiver of a jury trial as aforesaid the cause may be set down for trial at any time either in term time or in vacation, and when such cause shall have been tried and determined there shall not be any further trial on the facts, except on the granting of a new trial according to law, but exceptions upon questions of law may be taken to the supreme court.

§ 1431 A. Any party deeming himself aggrieved by the decision of any district magistrate, in any case, civil or criminal, may appeal therefrom to the circuit judge of the same circuit, at chambers, by filing notice of such appeal within five days after the rendering of such decision, and paying the costs accrued within ten days after the date of such decision; and if it is a civil case, depositing a good and sufficient bond in the penal sum of twenty dollars, conditioned for the payment of the costs further to accrue, in case he is defeated in the appellate court, or money to the same amount within said ten days. In all such cases so appealed no other or further appeal on any question of fact shall be allowed.

§ 1432. When any party deems himself aggrieved by the decision of any district magistrate, in any case, civil or criminal, and the circuit judge to whom appeal might be taken, is legally disqualified to hear and determine the case, said party may take an appeal direct to the supreme court, or to the circuit court of the circuit in which he resides, upon conforming to the conditions upon which appeals may be taken to a circuit judge at chambers.

§ 1433. Appeals shall be allowed from all decisions, judgments, orders, or decrees of circuit judges in chambers, to the supreme court, except in cases in which the appellant is entitled to appeal to a jury, whenever the party appealing shall file notice of his appeal within five days, and shall pay the cost accrued, and deposit a sufficient bond in the sum of fifty dollars, conditioned for the payment of the costs further to accrue in case he is defeated in the appellate court, or money to the same amount, within ten days after the filing of the decision, judgment, order, or decree appealed from: Provided, however, That in any case in which the law allows an appeal from the decision, judgment, order, or decree of a judge in chambers to be tried before a jury, the judge whose decision, judgment, order, or decree is appealed from shall not preside at the trial of such appeal

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before a jury, but such appeal shall be in order for hearing at the next regular term of the circuit court of the circuit in which the cause was tried in chambers, and the circuit judge of some other circuit, who shall be thereto authorized by the written request of the chief justice, or other justice of the supreme court, shall preside at the trial of such appeal: But further provided, That in case such appeal shall be taken from the decision, judgment, order, or decree of one of the judges of the first circuit in chambers, it shall be in order for hearing at the next regular term of such circuit, but the judge whose decision, judgment, order, or decree is appealed from shall not preside at the trial of such appeal. Appeals may be allowed upon like terms as to filing bond and payment of costs by the circuit judge in his discretion from decrees overruling demurrers or from or interlocutory judgments, orders, or decrees, whenever the circuit judge may think the same advisable for the more speedy termination of litigation.

The refusal of the circuit judge to allow an appeal from an interlocutory judgment, order, or decree shall not be reviewable by any other court.

§ 1434. In case of such appeal to the supreme court from a decision, judgment, order, or decree of a circuit judge in chambers, the supreme court shall have power to review, reverse, affirm, amend, modify, or remand for new hearing, in chambers, such decision, judgment, order, or decree in whole or in part, and as to any or all of the parties. Every such appeal shall be taken on the record and no new evidence shall be introduced in the appellate court: Provided That the appellate court may, in case evidence is offered, which is clearly newly discovered evidence, and material to the just decision of the appeal, admit the same. Nothing herein contained shall be construed to permit an appeal to be taken from any order by any judge or magistrate allowing any warrant, attachment, writ, or other process, or for any other order of a like nature.

§ 1435. An appeal duly taken and perfected in any cause provided for in this act shall immediately thereafter operate as an arrest of judgment and stay of execution: Provided, That execution may issue pending such appeal upon good and sufficient cause being shown therefor.

EXCEPTIONS.

§ 1436. Whenever any question of law shall arise in any trial or other proceeding before a circuit court, the presiding judge may reserve the same for the consideration of the supreme court; and in such case shall report the cause, or so much thereof as may be necessary to a full understanding of the questions, to the supreme court.

§ 1437. Any question may be reserved in like manner upon the motion of either party, on account of any opinion, direction, instruction, ruling, or order of the judge in any matter of law.

§ 1438. A party may allege exceptions to any such opinion, direction, instruction, ruling, or order, and the same being reduced to writing in a summary mode, and presented to the judge during the term or within ten days thereafter; or, in case of proceedings in vacation as of the term, within ten days after the opinion, direction, instruction, ruling, or order objected to, and being found conformable to truth, shall be allowed and signed by the judge, but if the judge shall refuse to allow and sign such exceptions, the truth of the allegations therein contained may, nevertheless, be established before the supreme court,

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and the exceptions allowed by it: Provided, That further time may be allowed by the judge in his discretion. Bills of exception upon like terms as to filing bond and payment of costs, may be certified to the supreme court from decisions overruling demurrers or from other interlocutory orders, decisions, or judgments, whenever the judge in his discretion may think the same advisable for a more speedy termination of the case. The refusal of the judge to certify an interlocutory bill of exceptions to the supreme court shall not be reviewable by any other court.

§ 1439. Upon the allowance of such exceptions and the deposit of twenty-five dollars, or a bond of this amount, by the party excepting, with the clerk of such court, for costs to accrue in the supreme court, the questions arising thereon shall be considered by the supreme court. If, however, the exceptions shall appear to the judge before whom the trial is had to be frivolous, immaterial, or intended for delay, judgment may be entered in the cause, and execution may be awarded or stayed on such terms as the judge shall deem reasonable, notwithstanding the allowance of exceptions.

§ 1440. When, upon the hearing of a cause brought before the supreme court upon exceptions, it shall appear that the exceptions are frivolous or immaterial, or were intended for delay, the court may award against the party taking the exceptions double costs from the time when the same were alleged, and also interest from the same time at the rate of nine per cent per annum on the sum, if any, found due for debt or damages, or may award any part of such additional costs and interest as it may deem proper.

§ 1441. When judgment has been entered in any cause in which exceptions have been allowed, the judgment may be vacated by the supreme court without any writ of error, in like manner as if it had been entered by mistake, and thereupon such further proceedings shall be had in the cause as to law and justice shall appertain.

§ 1442. No trial by jury shall be prevented or delayed by the alleging, filing, or allowance of such exceptions, but the verdict shall be received and such further proceedings shall be had in the cause as the court may order, in pursuance of the foregoing provisions.

NOTE TO CHAPTER 92.

§§ 1430–1431 are S. L. 1896, act 54. § 1431A is S. L. 1898, act 44. § 1432 is C. L. § 938. §§ 1433 and 1438 are S. L. 1898, act 40. §§ 1434–1437, 1439–1442 are S. L. 1892, ch. 57, §§ 70–78.

Cases in Hawaiian Reports: § 1430, Luce v. Chin Wa, 5 Haw., 629; R. v. Lee Choy, 7 Haw., 63; Humuula v. Ahlo, 7 Haw., 213; Afong v. Kale, 7 Haw., 521; Paa v. Richardson, 7 Haw., 301; Rego v. Mahoe, 7 Haw., 621; Castle v. Bowler, 8 Haw., 368; Ah Leong v. Kee You, 8 Haw., 419; Atty. Gen. v. Hughes, 8 Haw., 609; Govt. v. Smith, 9 Haw., 179; Ah Ping v. Govt., 9 Haw., 284; Govt. v. Aloiau, 9 Haw., 401; Murray v. Colburn, 9 Haw., 424; Govt. v. Mura, 9 Haw., 429; Titcomb v. Naeole, 10 Haw., 346.

§ 1433. R. v. Aiona, 5 Haw., 142; Pupuka v. Maiwela, 6 Haw., 368; Makaweli v. Himeni, 7 Haw., 169; Castle v. Bowler, 8 Haw., 368; Kaluahi v. Grinbaum, 9 Haw., 141; Est. Banning, 9 Haw., 256; Re Walters, 10 Haw., 25; Barthrop v. Kona Coffee Co., 10 Haw., 398.

§ 1434. Onomea v. Austin, 5 Haw., 605; Thurston v. Aylett, 7 Haw., 573; Re Tai v. Wo Chan, 9 Haw., 511.

§ 1436. Govt. v. Poor, 9 Haw., 220.

§§ 1438–1439. R. v. Paakaula, 3 Haw., 30; Luka v. Poohina, 3 Haw., 728; Kamalu v. Lovell, 4 Haw., 601; Coleman v. Coleman, 5 Haw., 302; Dowsett v. Jones, 9 Haw., 548; Cummings v. Iaukea, 10 Haw., 1; Kapuakela v. Iaea, 10 Haw., 99; Carter v. Mutual Life Ins. Co., 10 Haw., 117; Fraga v. Port. Mut. Ben. Soc., 10 Haw., 128; Haae v. Kuluwaimaka, 10 Haw., 347; McGrew v. McGrew, 10 Haw., 600.

§ 1441. Est. Kamaka, 9 Haw., 251; Byrne v. Allen, 10 Haw., 327.

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CHAPTER 93.

WRIT OF ERROR.

§ 1443. A writ of error may be had by any party deeming himself aggrieved by the decision of any justice, judge, or magistrate, or by the decision of any court except the supreme court, or by the verdict of a jury, at any time before execution thereon is fully satisfied, within six months from the rendition of judgment.

§ 1444. Writs of error shall lie to any decision or ruling by a justice or judge in any case in which jury has been waived.

§ 1445. A writ of error may be had to correct any error appearing on the record, either of law or fact, or for any cause which might be assigned as error at common law: Provided, however, That no writ of error shall issue for any defect of form merely in any declaration, nor for any matter held for the benefit of the plaintiff in error.

§ 1446. For all purposes of this chapter the record shall be deemed to include all pleadings, motions, notes, or bills of exception, exhibits, clerk's or magistrate's notes of proceedings, and, if so desired by the plaintiff in error, a transcript of the evidence in the case.

§ 1447. There shall be no reversal on error of any finding depending on the credibility of witnesses or the weight of evidence.

§ 1448. Writs of error in civil cases may be issued by the clerk of the judiciary department or his deputies, as of right in term time or vacation, upon the application of any party to the original cause or of any personal representative of a deceased party.

§ 1449. No writ of error shall issue in a criminal case unless allowed by a justice of the supreme court. The allowance of the writ shall operate as a stay of execution in capital cases but shall not suspend sentence in cases not capital.

§ 1450. No writ of error shall issue until the sum of twenty-five dollars has been deposited to cover costs, and a bond has been filed with the clerk, in favor of the prevailing party in the proceeding in which the error is alleged to have occurred, or to his personal representatives, conditioned for the payment of the judgment in said original cause in case of failure to sustain the writ of error. An assignment of errors shall be filed at the time of procuring the writ.

§ 1451. Every writ of error shall be addressed to the clerk of the court, if any, in which the error is alleged to have occurred, or to the judge or magistrate making the ruling, and may be served upon such clerk or judge by mail.

§ 1452. Writs of error shall be substantially of the following form:

Supreme court of the Territory of Hawaii.

———————,
plaintiff in error,
vs.
———————,
defendant in error.

To ————, clerk, etc.

Whereas in an action lately pending before the ——— court for the ——— judicial circuit, in which ——— was plaintiff and ——— defendant, error is alleged to have occurred, as appears by the assignment of errors on file in this court, you are commanded forthwith to

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send up to this court the record and all exhibits filed in said proceedings.

Witness, the honorable ————, chief justice of the supreme court.

—— ——, *Clerk.*

No writ of error shall be quashed for defect of form.

§ 1453. Service of a copy of the assignment of errors shall be made by the chief sheriff or his deputies upon the defendant in error or upon the personal representative of a deceased party. Such copy shall bear a notice from counsel that a writ of error has issued. No hearing shall be had on a writ of error until twenty days after service.

§ 1454. No joinder in error shall be necessary. After due service the court may proceed *ex parte* if no appearance is made by the defendant in error.

§ 1455. No reversal on error shall affect the validity of any sale of personal or real property made on execution prior to the service of the copy of the assignment of errors. The issue of a writ of error and the filing a bond as above provided shall stay execution from and after notice of the same could have reached the officer making the levy of the same. It shall be the duty of the clerk or magistrate of the court to which the writ is addressed to notify such officer, and he shall be deemed to have received such notice by the first mail after the receipt of said writ, if making a levy in a place other than the residence of such clerk or magistrate, otherwise on the same day.

§ 1456. The supreme court shall have power to enter such judgment in the case as in their opinion the facts and law warrant.

§ 1457. The supreme court shall have power to order additional bond upon motion, and to determine the amount of penalty thereof and the sufficiency of the sureties to the same, or to the bond given, before proceeding to a hearing on the writ.

NOTE TO CHAPTER 93.

§§ 1443–1457 are S. L. 1892, ch. 95, superseding C. L., §§ 1157–1160.

Cases in Hawaiian Reports: Peacock v. Lovejoy, 5 Haw., 231; Ahiu v. Wideman, 7 Haw., 333; Ami v. Parke, 7 Haw., 214; Phelps v. Carter, 9 Haw., 640; Cummings v. Iaukea, 10 Haw., 1; Woodward v. Republic, 10 Haw., 416; Goo Kim v. Holt, 10 Haw., 653.

CHAPTER 94.

APPEAL BONDS.

§ 1458. Whenever, in a proceeding before any court, on a motion for a new trial, or on an appeal, or upon an application for a writ of error, or upon exceptions, a bond shall be required for costs, or against the removal or disposal of property liable to execution, it shall be sufficient to give one bond, in an amount to be fixed by the presiding judge, which may include both security against costs and against the removal or disposal of property, and no other or further bond shall be required, and such bond shall remain in full force and effect until the final termination of the whole proceedings so pending in such court, or until the final determination before the court to which such motion for new trial, petition for writ of error, appeal, or exceptions, shall or may be taken.

§ 1459. No bill of exceptions or appeal shall be dismissed for any

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informality or insufficiency of any bond unless upon neglect of the party filing such bond to comply with an order of a judge directing an amendment of such bond after a reasonable time of not less than 24 hours, which shall be given for such purpose.

§ 1460. The bond required in section 1458 shall in all cases run to the clerk of the judiciary department and to his successors in such office. It shall be conditioned for the payment of all costs to arise subsequent to its filing, and against the removal or disposal of property.

§ 1461. Whenever any person for whose benefit such bond has been filed shall be entitled to a recovery thereunder, an action may be brought in the appropriate court in the name of the clerk of the judiciary department for the use of such person, but on no account shall such clerk be liable for any of the costs, damages, or expenses of such suit, and any judgment recovered shall be payable to the person for whose use such suit was instituted and such person's receipt shall operate as a complete satisfaction of judgment.

NOTE TO CHAPTER 94.

§§ 1458-1461 are S. L. 1895, act 25.
See also § 1463.

CHAPTER 95.

JUDGMENT, EXECUTION, AND NEW TRIAL.

§ 1462. Judgment shall be entered by the clerk, without motion, immediately upon the rendition of a verdict, or of a judgment of the court in banco, or of a judge at chambers, and execution may issue thereon at any time thereafter, when called for, unless notice is given at the time of rendering the verdict or judgment, of a motion for a new trial and the filing of a bill of exceptions and bond, as provided by statute, within ten days after the rendition of such verdict or judgment: Provided, That execution may issue within ten days, even though such notice be given, when good and sufficient cause can be shown therefor. The provisions of this section shall not affect the right of appeal.

§ 1463. Any party against whom a verdict or judgment is rendered, as set forth in the last preceding section, may, upon filing a sufficient bond of security, conditioned for the payment of all costs of motion in case he fail to sustain the same, and that he will not, to the detriment of the plaintiff in the action, remove or otherwise dispose of any property he may have liable to execution on such judgment, and upon giving notice of said motion and the grounds thereof to the opposite party, move the court at any time within ten days after rendition of verdict or judgment, for a new trial, for any cause for which by law a new trial may and ought to be granted. The filing of the bill of exceptions and bond shall operate as a stay of execution until the motion is determined.

§ 1464. Every circuit judge at chambers, and district magistrate, shall, at the request of the party recovering any civil judgment in his court, unless such judgment be duly appealed from, issue his execution against the property of the party recovered against, which execution may be in the following form:

To any constable of the district of ———, *Island of* ———, *H. I.:*

You are commanded to levy upon the personal property of ———, if any within your district, and if sufficient can not be found, then upon his real property within

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said district, and, giving thirty days previous notice as required by law, to sell the same, or so much thereof as may be found necessary, at public sale to the highest bidder, in order to satisfy a judgment rendered by me against him in favor of ——, on the —— day of ——, 18—, for —— dollars, the costs of court inclusive, collecting also the legal interest thereon, from the date thereof, and your costs and the expenses of levy, advertisement, and sale. Make due return to me of this writ, with your proceedings thereon, and the money by you so collected, on or before the expiration of —— days; and hereof fail not at your peril.

Given under my hand this —— day of ——, 18—.

—— ——,
District magistrate (or as the case may be).

§ 1465. The provisions of the last preceding section shall not apply to the issuing of execution upon a judgment entered up by the order of a circuit judge, in any cause or proceeding in the circuit court, but in such case the execution shall be issued in the manner and form prescribed for courts of record.

§ 1466. All executions issued by a circuit judge at chambers, or district magistrate, shall be made returnable within sixty days from the date thereof.

§ 1467. The forms of executions to be issued from courts of record shall be the same as have been heretofore established by the usage and practice of such courts; but alterations therein may, from time to time, be made, or allowed by the supreme court, when necessary to adapt them to changes in the law, or for other sufficient reasons.

§ 1468. All writs of execution, whether civil or criminal, issuing from any court of record, shall be addressed to the chief sheriff, or his deputy, and shall be signed by the clerk of such court, and impressed with the seal thereof.

§ 1469. Every officer receiving a writ of execution issued in due form by any court or justice shall note thereon the day and hour of its receipt, and he shall give priority in levying upon property of the defendant in execution to the writs received by him according to the order of time in which they are received.

§ 1470. Every levy by an officer, in pursuance of a writ of execution issued by any court or justice, shall be made by taking the property levied upon into his possession, care, and guardianship, and, in his option, by removal of the same to some place of security. The officer shall make an inventory of the property levied upon.

§ 1471. The officer shall, after levy, advertise for sale the property levied upon, whether real or personal, for thirty days, or for such times as the court shall order, by posting a written or printed notice in three conspicuous places within the district where such property is situated, and if on the island of Oahu, by advertisement thereof at least three times in one or more newspaper or newspapers published at Honolulu, island of Oahu, Hawaiian Islands.

§ 1472. The officer shall, on the day and at the place set for such public sale, unless paid the amount of the judgment, interest, and costs, and his fees and disbursements accrued upon the writ, sell the property advertised to the highest bidder. He shall deduct from the proceeds of the sale sufficient for the full satisfaction, if possible, of the execution and his costs, expenses and commissions, and return the said writ, satisfied wholly or in part, paying the amount collected thereon to the plaintiff in execution or his attorney.

§ 1473. If at the time appointed for the sale the officer shall deem it expedient, and for the interest of all persons concerned therein, to postpone the sale, for want of purchasers or for other sufficient cause, he may postpone it for any time not exceeding seven days, and so

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from time to time, for like good cause, until the sale shall be completed, giving notice of every such adjournment, by a public declaration thereof, at the time and place previously appointed for the sale.

§ 1474. The officer shall execute and deliver, to any purchaser at any such sale, such certificate of purchase, or conveyance, as may be necessary.

§ 1475. No sale by execution shall operate to convey a greater estate or interest in the property sold than the defendant in execution had at the time of such sale, and all such sales of property not belonging to the defendant shall subject the officer to the private action of the purchaser, being afterwards deprived thereof by the real owner.

§ 1476. The officer serving any execution shall act upon his own private accountability, for all excesses of his official powers, and for any departure from the legal import of the writ or mandate in his hands.

§ 1477. If upon an execution being issued by a circuit judge at chambers, or by a district magistrate, no property, or not a sufficient amount of property, belonging to the defendant in execution, can be found within the jurisdiction of the judge or magistrate issuing the execution, and the same is returned unsatisfied, either wholly or in part, the plaintiff in execution may, upon procuring a certified copy of the judgment and execution in the court below, to be docketed in the office of the clerk of the supreme court, sue out a writ of execution from said supreme court, which shall be available against the property of the defendant, whorever situated within the Territory.

§ 1478. Any circuit court out of which an execution has been issued, if such execution has been returned unsatisfied wholly or in part, may issue an alias execution to the same circuit, or an execution leviable in some other circuit, for the satisfaction of the unpaid remainder of the judgment and additional costs, expenses, and commissions, which alias or *testatum* writ of execution shall be served by the chief sheriff or his deputy, in like manner as the original.

§ 1479. No original execution shall be issued, unless within one year after the party shall be entitled to sue out the same, and no alias, or other successive execution, shall be issued afterwards, unless each one be sued out within one year after the return day of that which preceded it.

§ 1480. If a judgment remains unsatisfied, after the expiration of the time for taking out execution thereon, the plaintiff may have *scire facias* to obtain a new execution, or he may, at any time after the judgment, have an action of debt thereon.

§ 1481. Any judge of a court of record may, by order at chambers, in any cause in which an execution shall have been issued, grant a stay thereof in the officer's hands, for equitable reasons, when no appeal or writ of error is granted, upon the defendant giving bond and security for its payment, with costs up to the said stay. The property levied upon shall not be released from the levy by the stay of execution, and in case at the end of the time accorded the condition of such bond be not complied with, the plaintiff in execution may elect whether to proceed to the sale of the levied property or to enforce the bond; provided, that if the levied property be not sufficient to pay the judgment, with all costs, expenses, and commissions, the stay inclusive, the sureties in the bond shall be answerable for the deficiency. And when justice may require the renewal of any execution, or an extension of the time for making return to any execution, any judge of a court of record shall have power so to order.

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§ 1482. Bonds of indemnity given to an officer, as provided in section 1040 of the Civil Laws, shall be collectable by the officer receiving the same, upon citation to show cause and proof of the signatures thereto, without the intervention of a jury, and the damages to be assessed thereon shall be the amount recovered against the said officer, with interest and costs of suit, and the expenses of such citation and judgment of indemnity, for which execution may be issued against the co-obligors, both jointly and severally, leviable as in other cases of indebtedness.

§ 1483. The following property, when owned by any person being a housekeeper, and having a family, shall be exempt from levy and sale on execution:

The family Bible, family pictures, and school books, two swine or six goats, and all necessary fish, meat, flour, and vegetables, and one piece of land where kalo is growing, or any other vegetable, provided the same does not exceed one-half an acre, actually cultivated for family use, likewise a house lot not to exceed one-quarter of an acre, and the dwelling house, and other buildings thereon situated, providing the value thereof shall not exceed two hundred and fifty dollars. But this exemption shall not apply to mechanics and material men for labor performed and material furnished in the erection of such buildings. All necessary wearing apparel, mats, beds, bedsteads, and bedding for such person and his family. One poi board, two calabashes, one o-o, one table, six chairs, six knives and forks, six plates, six tea cups and saucers, one sugar dish, one milk pot, one tea pot, one coffee pot, and six spoons; the tools and implements of any mechanic necessary for carrying on his trade or business, not exceeding fifty dollars in value.

The uniform of any officer or private belonging to any of the military forces of the Territory, his arms and accoutrements.

NOTE TO CHAPTER 95.

§§ 1462–1463 are C. L. §§ 1155–1156. §§ 1464–1470 are C. L. §§ 1016–1022. § 1471 is S. L. 1886, ch. 58. §§ 1472–1483 are C. L. §§ 1024–1035.

Cases in Hawaiian Reports: § 1462. Kamalu v. Lovell, 4 Haw., 601; Ah Chu v. Sung Co., 5 Haw., 292; R. v. Awana, 7 Haw., 305; Joliva v. Kaulukou, 7 Haw., 732; Kaheana v. Nalimu, 8 Haw., 228; Re Kealiiahonui, 9 Haw., 5; Herblay v. Norris, 9 Haw., 125; Kaleialii v. Grinbaum, 9 Haw., 215; Kukea v. Keahi, 10 Haw., 505.

§ 1463. Kekana v. Kalei, 3 Haw., 683; Luka v. Poohina, 3 Haw., 728; Gonsalves v. Brito, 8 Haw., 225; Kaniku v. Monsarrat, 8 Haw., 229; Kahula v. Kuamu, 6 Haw., 226; Dowsett v. Jones, 9 Haw., 548.

§ 1469. Holmes v. Soper, 6 Haw., 565.

§ 1470. Everett v. Bowles, 6 Haw., 154.

§ 1475. Lopez v. Kaiaikanaha, 9 Haw., 31; Hackfeld v. Ludovico, 10 Haw., 348.

CHAPTER 96.

COSTS IN THE JUDICIARY DEPARTMENT.

[§ 1484.]

§ 1485. IN THE DISTRICT COURTS.

For every summons, warrant, attachment, or other process issued by any district magistrate, one dollar.

For every adjournment upon the motion of either party, twenty-five cents.

For every subpœna, fifty cents.

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For administering any oath, ten cents.

For filing any paper at the request of either party, ten cents.

For rendering and entering up judgment, one dollar.

For every transcript of a judgment, fifty cents.

For every bond or other security drawn by the magistrate, one dollar.

For noting an appeal, ten cents; and for making a return thereof, one dollar.

Witnesses' fees.—Every witness attending and sworn upon the trial of any civil case, twenty-five cents; and when coming from any place out of the district, fifty cents for each day's actual attendance.

Constables' fees.—For serving any summons, warrant, attachment, or other process, one dollar.

For every copy of an attachment and inventory of the property attached served upon the defendant, one dollar and fifty cents.

For serving any execution, ten cents for every dollar collected up to fifty dollars, and five cents for every dollar over fifty dollars.

For serving any subpœna, ten cents for each witness.

For every mile of necessary travel more than one, in serving any process, five cents.

For taking care of any property seized under an attachment, his reasonable and necessary expenses.

§ 1486. IN TRIALS AT CHAMBERS BEFORE THE CIRCUIT JUDGES.

For every summons, warrant, attachment, or execution, one dollar.

For every subpœna, fifty cents.

For every adjournment on motion of either party, twenty-five cents.

For administering any oath, ten cents.

For filing any paper on motion of either party, twenty-five cents.

For rendering and entering up judgment of record, one dollar.

For every transcript of a judgment, fifty cents.

For every bond or other written security drawn by the judge, one dollar.

For noting an appeal, fifty cents; and making a return thereof, one dollar.

Witnesses' fees.—Every witness attending and sworn upon the trial of any civil case, twenty-five cents; and when coming from any place out of the district where the court is holden, fifty cents for each day's actual attendance.

Constables' fees.—The fees of constables shall be the same as those prescribed in the last preceding section for police courts.

§ 1487. In the supreme and circuit courts the costs for every summons, attachment, execution, or other process shall be two dollars; for every subpœna, one dollar; and there shall be no charge for drawing jury, issuing summons, and the service thereof on the panel of jurors.

§ 1488. The chief sheriff's or sheriff's fees for serving a summons or any other process (except a subpœna) shall be one dollar for each party served therewith; for serving any execution or other process for the collection of money, five cents for every dollar collected up to five hundred dollars, and two and one-half cents for every dollar over five hundred dollars; for every writ of possession or restitution, putting any person entitled into the possession of premises and removing a tenant pursuant to order of court, one dollar, and that no fee be charged for attendance upon the court.

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§ 1489. The judge's fee for every attendance at chambers upon the hearing of any motion shall be one dollar.

§ 1490. In the probate courts the costs for every citation or summons shall be one dollar; for every subpœna, one dollar; for hearing proof and determining upon the validity of any will, two dollars; for taking, stating, and determining upon an account rendered, or deciding upon the distribution of personal estate, one dollar; for hearing and determining any objection to the appointment of an administrator or any application for his removal, or for the removal of any guardian, or any application to annul the probate of a will, one dollar; provided, that in all cases where the value of the estate shall not exceed the sum of five hundred dollars, not more than ten dollars in addition to costs of advertising shall be charged for costs of court, to comprehend all hearings and proceedings required by statute or ordered by the court, including final hearing and discharge of the executor, administrator, guardian, or trustees.

§ 1491. In all the courts of this Territory, in all actions of assumpsit there shall be taxed as attorneys' fees, in addition to the attorneys' fees now taxable by law, to be paid by the losing party and to be included in the sum for which execution may issue, ten per cent on all sums to one hundred dollars and two and one-half per cent in addition on all sums over one hundred dollars, to be computed on the excess over one hundred dollars. The above fee shall be assessed on the amount of the judgment obtained by the plaintiff and upon the amount sued for if the defendant obtain judgment.

§ 1492. IN THE CIRCUIT AND SUPREME COURTS.

For filing any petition, plea, or other paper, at the request of either party, twenty-five cents.

For every summons, attachment, execution, or other process, two dollars.

For entering any petition, process, plea, or other proceeding of record, twenty-five cents per folio.

For every subpœna, one dollar.

For drawing jury and issuing summons for same, no charge.

For calling and swearing any jury, one dollar.

For swearing each witness on trial, ten cents.

For swearing sheriff or other officer to take charge of a jury, ten cents.

For entering any cause on the calendar for the court, and making a copy thereof for the use of the bar, one dollar.

For receiving and entering a verdict or award, one dollar.

For docketing a judgment, one dollar.

For every transcript of a judgment, one dollar.

For entering satisfaction of a judgment, one dollar.

For every search of record, and certificate made at the request of any party, fifty cents.

For every assessment of damages upon a promissory note or other instrument, one dollar.

For entering any rule, order, or decree of court, and for every copy of the same, twenty-cents per folio.

For entering any discontinuance, nonsuit, or default, one dollar.

For drawing any bond or other written security, one dollar.

For serving any notice upon either party, one dollar.

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Attorneys' fees.—For drawing any petition or plea, three dollars; and for every copy thereof, one dollar and fifty cents.

For every notice of trial, copy and service, one dollar.

For every other notice in any cause, copy and service, one dollar.

For attending upon the trial of any cause, or the argument of any motion, three dollars.

For drawing bill of costs, copy and service, one dollar.

For every attendance before a judge on taxation of costs, one dollar.

For every motion for judgment, and other like motions, fifty cents.

All actual disbursements sworn to by an attorney, and deemed reasonable by the taxing officer, may be allowed in taxation of costs.

Chief sheriff's or sheriffs' fees.—For serving a summons or any other process (except a subpœna), one dollar for each party served therewith.

For serving subpœna, fifty cents for each witness.

For all necessary travel in making such service, ten cents per mile for every mile more than one.

For a copy of any summons, petition, or other process, one dollar and fifty cents.

For serving any execution, or other process for the collection of money, five cents for every dollar collected up to five hundred dollars, and two and one-half cents for every dollar over five hundred dollars. All fees paid to any printer for publishing an advertisement of the sale of any property.

For every bill of sale, one dollar.

For drawing, executing, and acknowledging a deed pursuant to a sale of real estate, five dollars, to be paid by the grantee in such deed.

For drawing any bond required by law, one dollar.

For summoning any panel of jurors to attend at any term of court, five dollars.

For summoning any special jury, three dollars.

For serving writ of possession, or of restitution, putting any person entitled into the possession of premises, and removing a tenant pursuant to the order of a court, one dollar.

For bringing up a prisoner for trial, or upon *habeas corpus* to testify or answer in court, one dollar.

For selling any property on an order from the court other than an execution, the same allowance as for service and sales by execution.

For attending on the court, no charge.

The fees for service of executions and collection of judgments, together with all other costs incurred after judgment rendered, not included in the judgment, shall, in all the courts of the Republic, be collected in addition to the sum directed to be levied and collected in the execution.

Witnesses' fees.—One dollar for each day's attendance upon the court; and when they do not reside in the town where such court is held, five cents per mile for their necessary travel in going to and returning from the court.

Jurors' fees.—The pay of jurors shall be as follows: Two dollars for each day's attendance in court; five cents for each mile of travel in coming to and returning from court, and one dollar for every verdict returned.

The fees of witnesses and the fees of jurors for the verdict returned in each case shall be taxable items in the bill of costs to be paid by the losing party.

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Judge's fees.—For every attendance at chambers upon the hearing of any motion, one dollar.

For every order for a commission to examine witnesses, or for letters rogatory, three dollars.

For attending, settling, and certifying interrogatories to be annexed to a commission, or letters rogatory, three dollars.

For every order for the examination of a witness conditionally, or upon any proceeding to perpetuate his testimony, one dollar,

For every day's attendance upon the examination of such witness, five dollars.

For every necessary order in the progress of a cause, one dollar.

For taxing bill of costs, one dollar.

For attendance in settling case, or bill of exceptions, one dollar.

For taking the acknowledgment of satisfaction of a judgment, one dollar.

For endorsing allowance on any process of constraint to the person or property of a party, one dollar.

For taking a bond in any case when a bond is required by law, one dollar.

For taking the oath or affidavit of any person, twenty-five cents.

For attending to the selection of referees and certifying their appointment, three dollars.

For every order, warrant, attachment, or other process made or issued in any special proceeding, five dollars.

For every notice to any party, officer, or person, required to be given by any judge, one dollar.

For every report, and all other papers which he may be required by law to prepare in order to be signed by himself, twenty-five cents per folio.

§ 1493. IN THE PROBATE COURTS.

For every citation or summons, one dollar.

For every subpœna, one dollar.

For every copy of a citation or subpœna, one dollar.

For every certificate of the proof of a will, endorsed thereon, and for every other necessary certificate, fifty cents.

Hearing proof and determining upon the validity of any will, two dollars.

For recording every will, with the proof thereof, letters testamentary, letters of administration, appointment of a guardian, and every other proceeding or order necessary to be recorded, twenty-five cents per folio.

For copies and exemplifications of the probate of a will, letters testamentary or of administration, or of any other proceeding or order had before a judge or court having probate powers, twenty-five cents per folio.

For the appointment of any administrator, guardian, or appraiser, two dollars.

For administering any oath to administrator, appraiser, or guardian, twenty-five cents.

For every bond taken from any administrator or guardian, or in any other case where a bond is required, one dollar.

For taking, entering, and filing renunciation of any person entitled to be appointed an administrator or guardian, one dollar.

For filing an inventory, or final account, and entering the same of record, twenty-five cents per folio.

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For making any order for the sale of real estate, and for every other necessary order, one dollar.

For taking, stating, and determining upon an account rendered, or deciding the distribution of personal estate, one dollar for the case.

For hearing and determining any objection to the appointment of an administrator, or any application for his removal, or for the removal of any guardian, or any application to annul the probate of a will, one dollar.

For hearing and deciding any application to lease, mortgage, or sell real estate, three dollars.

Searching records of office and giving certificate, one dollar.

For every appointment of commissioners to admeasure dower or to make partition of real estate, two dollars.

For hearing and determining upon the report of such commissioners, two dollars.

All actual disbursements for printing.

For receiving and distributing any money on the sale of real estate, a commission of five per cent on all sums up to the amount of five hundred dollars and two and a half per cent on all sums over five hundred dollars.

Fees of executors, administrators, and guardians.—Executors, administrators, and guardians shall be allowed the following commissions upon all moneys received and accounted for by them, that is to say:

Upon all moneys received representing the estate at the time of the institution of the trust, such as cash in hand and moneys realized from securities, investments, and from sales of real estate and personal property other than interest, rents, dividends, and other profits coming due after the inception of the trust, two and one-half per centum.

Upon the final payment thereof, or any part thereof, two and one-half per centum.

Provided, however, that no commissions shall be allowed as for final payments of such moneys, except upon amounts actually expended and upon balances paid into court or to the parties thereunto entitled upon the final settlement of the services for which such executors, administrators, or guardians shall have been appointed and qualified.

Upon all moneys received in the nature of revenue or income of the estate, such as rents, interest, and general profits, ten per centum for the first thousand dollars, seven per centum for the next four thousand dollars, and five per centum for all amounts over and above the first five thousand dollars.

Such commissions of ten, seven, and five per centum to be allowed upon each accounting when made, but not oftener than once a year.

These provisions shall apply as well to all future accounting in existing trust estates as to new trusts.

Fees of commissioners and appraisers.—For every day's actual and necessary attendance in admeasuring dower, partitioning real estate, or appraising property, five dollars, and all actual disbursements for surveying, plans, etc.

Witnesses', chief sheriff's, or sheriff's fees shall be such as the court or judge shall deem just and reasonable.

In all probate matters where the value of the estate to be administered upon shall not exceed one hundred dollars no costs shall be charged except those of actual disbursements; and where the value of the estate shall be more than one hundred dollars, and not exceed the value of five hundred dollars, the judge shall have power to diminish

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the costs, in his discretion, whenever the circumstances of the parties interested shall seem to demand it.

All judges', justices', and clerks' fees, provided for in this chapter, shall be accounted for quarterly to the treasurer for the benefit of the public treasury.

§ 1494. The justices of the supreme court shall have power from time to time to revise the costs and fees provided in this chapter, but not to increase the same; and also to prescribe such costs and fees as they shall deem reasonable in all cases not therein provided for.

§ 1495. Costs shall be allowed to the prevailing party in judgments rendered on appeal in all cases, with the following exceptions and limitations:

1. If the defendant against whom judgment is rendered appeal, and judgment be rendered in his favor in the appellate court, and the amount recovered in the court below be reduced one-fifth or more, costs shall be awarded to the appellant.

2. If the defendant in whose favor judgment is rendered shall appeal, and he shall not recover in the appellate court at least one-fifth more than the amount recovered below, costs shall be awarded to the appellee.

3. If the plaintiff in whose favor judgment is rendered appeal, and he shall not recover in the appellate court at least one-fifth more than the amount recovered below, costs shall be awarded to the appellee.

4. In all other cases, the party recovering any sum shall be entitled to costs.

§ 1496. Whenever costs are awarded to the appellant, he shall be allowed to tax as part thereof the costs and fees paid in the lower court on taking the appeal, in addition to the costs of the court appealed to. And if, upon an appeal, a recovery for any debt or damages be had by one party, and costs be awarded to the other party, the court shall set off such costs against such debt or damages, and render judgment for the balance.

NOTE TO CHAPTER 96.

§§ 1484–1486 are C. L., §§ 1277-1279. §§ 1487–1491 are S. L. 1872, ch. 29, C. L., p. 415. § 1492 is C. L., § 1280 amended (witnesses' and jurors' fees), S. L. 1882, ch. 24, and S. L. 1884, ch. 30. § 1493 is C. L., § 1281 amended (fees of executors, administrators, and guardians), S. L. 1892, ch. 98. § 1494 is C. L., § 1282. §§ 1495, 1496 are C. L., §§ 1013, 1014.

Cases in Hawaiian Reports:

§ 1485. Lopez *v.* Ahman, 7 Haw., 2.
§ 1486. Barthrop *v.* Kona Coffee Co., 10 Haw., 398.
§ 1491. Bowler *v.* Board Immigration, 7 Haw., 716.
§ 1492. Rose *v.* Smith, 7 Haw., 3; Spreckels *v.* Giffard, 10 Haw., 462.
§ 1493. Est. Long, 7 Haw., 372; Est. Banning, 9 Haw., 456.
§§ 1495, 1496. Nakanehia *v.* Kailanu, 5 Haw., 179; Kamalu *v.* Lovell, 5 Haw., 181.

CHAPTER 97.

EQUITY, ADMIRALTY, AND PROBATE JURISDICTION.

EQUITY JURISDICTION.

§ 1497. In addition to the jurisdiction in equity otherwise conferred, the several circuit judges shall have original and exclusive jurisdiction of every original process, whether by bill, writ, petition, or otherwise, in which relief in equity is prayed for, except when a different provision is made, and may issue all general and special writs and

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processes required in proceedings in equity to courts of inferior jurisdiction, corporations, and individuals when necessary to secure justice and equity.

§ 1498. The several circuit judges may hear and determine in equity all cases hereinafter mentioned, when the parties have not a plain, adequate, and complete remedy at the common law, that is to say:

Suits for the redemption of mortgages or to foreclose the same.

Suits and proceedings for enforcing and regulating the execution of trusts, whether the trusts relate to real or personal estate.

Suits for the specific performance of contracts by and against either party to the contract and his heirs, devisees, executors, administrators, and assigns.

Suits to compel the delivery of goods or chattels taken or detained from the owner and secreted or withheld so that the same can not be replevied.

Suits for contributions by or between devisees, legatees, or heirs, who are liable for the debts of a diseased testator or intestate and by or between any other persons respectively liable for the same debt or demand, when there is more than one person liable at the same time for such contribution.

Other cases in which there are more than two parties having distinct rights or interests which can not be justly and definitely decided and adjusted in one action at the common law.

Suits between copartners, joint tenants, and tenants in common, and their legal representatives, with authority to appoint receivers of rents and profits, and apportion and distribute the same to the discharge of encumbrances and liens on the estates or among the cotenants.

Suits between joint trustees, coexecutors, and coadministrators, and their legal representatives.

Suits concerning waste and nuisance, whether relating to real or personal estate.

Suits upon accounts when the nature of the account is such that it can not be conveniently and properly adjusted and settled in an action at law.

Bills by creditors to reach and apply in payment of a debt any property, right, title, or interest, legal or equitable of a debtor, within this Territory, which can not be come at to be attached or taken on execution in a suit at law, against such debtor.

Cases of fraud and conveyances or transfers of real estate in the nature of mortgages.

Cases of accident or mistake.

Suits or bills of discovery, when a discovery may be lawfully required according to the course of proceedings in equity.

And shall have full equity jurisdiction, according to the usage and practice of courts of equity in all other cases where there is not a plain, adequate, and complete remedy at law.

§ 1499. Cases in equity may be commenced by bill or petition with a writ of subpœna according to the usual course of preceedings in equity, or inserted in an original writ of summons, or of summons and attachment, or by declaration in an action of contract, or tort, as the case may be, with or without an order for the attachment of the property or arrest of the defendant, and shall be returnable at the terms of the court or on the rule days established by the court.

The material facts and circumstances relied on shall be stated with brevity, omitting immaterial and irrelevant matters.

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§ 1500. If a discovery is sought, it may be by such bill or petition, or by being made part of such declaration or by interrogatories.

Answers thereto shall be made without unnecessary delay, and questions arising thereon be determined by the rules applicable to bills of discovery.

§ 1501. A defense in equity shall be made by demurrer, plea, or answer.

A demurrer shall be accompanied with a certificate that it is not intended for delay and an answer shall be supported by oath, unless waived by the adverse party.

EQUITY AND PROBATE MATTERS.

§ 1502. All applications for the foreclosure of any mortgage of real or personal property; for the abatement of nuisance, public or private; for the annulment of charters and other corporate rights, or for restraint or prohibition in the exercise thereof; for proclamation *scire facias;* for sequestration of property upon legal or equitable grounds; for divorces and separations; for the affiliation of bastards; for the partition and division of real property; for the admeasurement of dower; for enquiries of lunacy or insanity; or for enquiries *de ventre inspiciendo* to determine the right of property, shall be by sworn petition addressed to some court, or justice, having jurisdiction thereof.

§ 1503. Upon the filing of such petition, the court or judge shall determine, *ex parte*, upon the propriety of granting the process prayed for. In cases not demanding secrecy or occasioning doubt, the court or judge may, before issuing process, grant an order to show cause and make any interlocutory order in the matter which may appear necessary to the ends of justice.

§ 1504. When process is issued in any such case, it shall be served by delivery of a copy of the petition and of the summons to the defendants, or in case they can not be found, by leaving such copy with some one upon the premises involved in the controversy, or in such other manner as the court or judge may direct. The officer charged with service of the process shall also, if so directed by the court or judge, publish in the Government Gazette a notice of such suit or proceeding, calling upon all persons interested to appear and show cause against it, at the time and place appointed for the hearing.

§ 1505. The court or judge may assess the amount due upon mortgages, whether of real or personal property, without the intervention of a jury, after hearing of the parties and adduction of the proofs, and shall order judgment or decree to be entered for the amount awarded, and execution to be issued thereon, subject to appeal in all cases except where the judgment or decree is rendered by the supreme court.

§ 1506. All prior and subsequent mortgage creditors, whose names are or can be discovered by the party foreclosing a mortgage, shall be made parties to his application, and if discovered before the day appointed for hearing, they shall be served with a copy of the petition.

§ 1507. Mortgage creditors shall be entitled to payment according to the priority of their liens, and not *pro rata;* and decrees of foreclosure shall operate to extinguish the liens of subsequent mortgages of the same property, without enforcing prior mortgages to their right of recovery. The surplus, after payment of the mortgage foreclosed, shall be applied *pro tanto* to the next junior mortgage, and so on to the payment, wholly or in part, of mortgages junior to the one assessed.

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§ 1508. The mortgagor, or any subsequent mortgagee, may appear and answer matter of fact or of law, pleadable in defense to the application or petition for foreclosure, and shall be allowed to show any matter in legal or equitable avoidance of the mortgage.

[§§ 1509–1514.]

§ 1515. Matters of probate and of administration shall be heard and determined by the judge or court having jurisdiction thereof, without the intervention of a jury.

WHEREAS section 1515 has been held not to permit an appeal to a jury, on the validity of any will, or testamentary devise, or any facts touching the descent of property, when such will or testamentary devise is a matter of investigation in probate; Therefore,

Be it enacted, etc.:

§ 1516. That from and after the date of the passage of this act, whenever the value of the estate of any deceased person shall exceed five hundred dollars, any person claiming, before any judge, sitting as a court of probate, such estate, or any part thereof, or any interest therein, by virtue of any will or testamentary devise or by virtue of the statutes of descent of property in this Territory, who may deem himself aggrieved by the decision of such probate judge at chambers, may, upon taking his appeal to the circuit court or supreme court, if any matter of fact is in issue, move the appellate court that the issue of fact may be tried by a jury, and his motion shall not be denied.

§ 1517. Whensoever an appeal may have been taken by the party against whom judgment has been rendered by the judge of probate at chambers, the appellee may likewise move the court that any issue of fact may be tried by a jury, and his motion shall not be denied.

§ 1518. On all appeals from a decision of a probate judge at chambers, whether the same be tried before a jury or before the court, without the intervention of a jury, the record of the court below may be read as testimony, and either party shall be at liberty to introduce such further testimony as he may be enabled, and also to reexamine orally before such court or jury on such appeal, any witness or witnesses whom he may have produced and examined on the original hearing at chambers.

§ 1519. In all cases in which any person, whether a citizen of this Territory or otherwise, shall decease, in any part of this Territory, leaving a will in this Territory of his or her property within its jurisdiction or abroad, or having died abroad, and there left a will bequeathing or disposing of his or her property in this Territory, it shall be incumbent upon the person named as executor of such will, or on the person to be benefitted thereby, or on the person in whose charge the same was deposited or some person in behalf of those interested, to apply to some judge of a court of record, at chambers, for probate of such will, and for citation of the witnesses thereto, and of the next of kin of the deceased.

§ 1520. It shall in like manner be incumbent on the person entitled and desirous to administer, according to the priority of right hereinafter prescribed, upon the estate of any person dying intestate in this Territory, and leaving property therein, or dying abroad and leaving property in this Territory, to apply by petition to some judge of a court of record, at chambers, for power to administer thereon.

§ 1521. All applications for probate of wills, or for letters of administration, shall be sworn by petition, in which the party shall set forth circumstantially all the facts upon which his application rests.

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§ 1522. In the appointment of administrators upon the property of deceased persons, the following order of priority shall be observed:

1. The husband of a deceased wife.
2. The wife of a deceased husband.
3. The children being major.
4. The brothers and sisters of the deceased.
5. The cousins germain of the deceased.
6. Any *bona fide* creditor applying for administration.

Provided, however, that the judge may, for satisfactory cause, disregard the order of priority herein prescribed.

§ 1523. The judge shall make the necessary orders for, and prescribe the length of time during which executors and administrators shall give notice to creditors and debtors of the estate, and for the filing of inventories of the assets.

§ 1524. Executors and administrators shall in no case be liable to suit, until the expiration of six calendar months after probate, or the granting of letters of administration, except in cases of rejected claims, as provided in section 1526.

§ 1525. Immediately after the appointment of any executor or administrator of any estate, he shall advertise in such newspaper or newspapers as the court shall direct, for as long a time as the court may order, at least once a week for four weeks, a notice to all creditors of the deceased to present their claims, duly authenticated and with the proper vouchers, if any exist, even if the claim is secured by mortgage upon real estate, to him, either at his residence or place of business, within six months from the day of such publication. And if such claims be not presented within six months from the first publication of the notice, or within six months from the day they fall due, they shall be forever barred, and the executor or administrator shall not be authorized to pay them.

§ 1526. If any claim be rejected by the executor or administrator, a suit must be brought upon it against the executor or administrator, within two months after such rejection, or within two months after the same becomes due, or it will be forever barred.

§ 1527. It shall not be lawful to allow any claim that is barred by the statute of limitations of this Territory.

§ 1528. In all cases contemplated by the provisions of this chapter, the court or judge shall have power to issue all such letters rogatory, or commissions to take testimony, as may be necessary and proper in any particular case.

WHEREAS doubts have arisen as to the jurisdiction of the probate courts of this Territory to order the sale of real estate of deceased persons for the purpose of paying their debts; and it is expedient to remove such doubts; Therefore,

Be it enacted, etc.

§ 1529. That the probate courts of this Territory have had from the time of their establishment, and now have, and hereafter shall continue to have, jurisdiction to order and decree the sale of any real estate of deceased persons for the purpose of paying their debts, whensoever the personal estate of such deceased persons shall prove to be insufficient for the purpose.

NOTE TO CHAPTER 97.

§§ 1497–1501 are S. L. 1878, ch. 15 C. L., p. 389. §§ 1502–1515 are C. L. §§ 1228–1241. §§ 1516–1518 are S. L. 1864, C. L., p. 394. §§ 1519–1523 are C. L. §§ 1242–

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1246. §§ 1524–1527 are S. L. 1898, act 37. § 1528 is C. L. § 1248. § 1529 is S. L. 1876, ch. 57 C. L., p. 397.

Cases in Hawaiian Reports:

§ 1498 Asing v. Aiona, 6 Haw., 281.

§ 1502 Haw. Com. Co. v. Waikapu, 8 Haw., 449; Day v. Day, 8 Haw., 715.

§ 1504 Byrne v. Allen, 10 Haw., 668.

§ 1516 Est. Bishop, 5 Haw., 289; Est. Brenig, 7 Haw., 642; Est. Banning, 9 Haw., 254; Est. Akahi, 9 Haw., 610.

§ 1519 Est. Engelhardt, 7 Haw., 264.

§§ 1525–1526 Larsen v. Waterhouse, 7 Haw., 399; Emele v. Williams, 10 Haw., 123; Poor v. Smith, 10 Haw., 467; Defries v. Cartwright, 10 Haw., 249.

§ 1529 Kapena v. Kaleleonalani, 6 Haw., 582.

CHAPTER 98.

SUITS BY AND AGAINST THE GOVERNMENT OF HAWAII.

§ 1530. The supreme court shall have exclusive jurisdiction to hear and determine the following matters, and shall determine all questions of fact involved without the intervention of a jury:

First. All claims against the government founded upon any statute of the Territory, or upon any regulation of an executive department, or upon any contract, expressed or implied, with the government, and all claims which may be referred to it by either house of the legislature: Provided, however, That no suit shall be maintained, nor shall any process issue against the government, based on any contract or any act of any government officer which such officer is not authorized to make or do by the laws of this Republic, nor upon any other cause of action than as herein set forth.

Second. All set-offs, counterclaims, claims for damages, whether liquidated or unliquidated, or other demands whatsoever on the part of the government against any person making claim against the government under the provisions of this act.

§ 1531. Upon the trial of any cause in which any set-off, counterclaim, claim for damages, or other demand, is set up on the part of the government against any person making claim against the government in said court, the court shall hear and determine such claim or demand both for and against the government and claimant; and if upon the whole case it finds that the claimant is indebted to the government, it shall render judgment to that effect, and such judgment shall be final.

§ 1532. No person shall file or prosecute as aforesaid any claim for or in respect to which he or any assignee of his has pending in any other court any suit or process against any person who, at the time when the cause of action alleged in such suit or process arose, was, in respect thereto, acting or professing to act, mediately or immediately, under the authority of the Government.

§ 1533. Aliens who are citizens or subjects of any government which accords to citizens of this Territory the right to prosecute claims against such government in its courts shall have the privilege of prosecuting claims against this government as aforesaid.

§ 1534. Every claim against this government, cognizable as aforesaid, shall be forever barred unless the petition setting forth a statement thereof is filed in the court, or transmitted to it by the secretary of the senate or the clerk of the house of representatives, as provided by law, within two years after the claim first accrues: Provided, That the claims of persons under legal disability shall not be barred if the

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petition be filed in the court or transmitted, as aforesaid, within one year after the disability has ceased.

§ 1535. The claimant shall, in all cases, fully set forth in his petition the claim, the action thereon in the legislature, or by any of the departments, if such action has been had; what persons are owners thereof or interested therein, when and upon what consideration such persons became so interested; that no assignment or transfer of said claim, or of any part thereof or interest therein, has been made, except as stated in the petition; that said claimant is justly entitled to the amount therein claimed from this government, after allowing all just credits and offsets; that the claimant, and, where the claim has been assigned, the original and every prior owner thereof, if a citizen, has at all times borne true allegiance to this government, and, whether a citizen or not, has not in any way voluntarily aided, abetted, or given encouragement to rebellion against this government, and that he believes the facts as stated in the said petition to be true. And the said petition shall be verified by the affidavit of the claimant, his agent or attorney.

§ 1536. Any person who corruptly practices or attempts to practice any fraud against this government in the proof, statement, establishment, or allowance of any claim, or of any part of any claim, against this government, shall *ipso facto* forfeit the same to this government; and it shall be the duty of said court in such cases to find specifically that such fraud was practiced or attempted to be practiced, and thereupon to give judgment that such claim is forfeited to this government, and that the claimant be forever barred from prosecuting the same.

§ 1537. No interest shall be allowed on any claim up to the time of the rendition of judgment thereon by the court, unless upon a contract expressly stipulating for the payment of interest.

§ 1538. The judgments of the supreme court in all matters brought before it under the provisions of this act shall be final.

§ 1539. No prosecution, indictment, action, or suit shall be maintained in any court, criminal or civil, against any officer of the government or other person acting *bona fide* under the authority of the president, or in good faith for the purpose of suppressing rebellion, for any acts, matters, and things done or omitted to be done, or which shall be done on, from, and since January 6th, 1895, until martial law shall be declared to be no longer in force, whether done in a district in which martial law was proclaimed or in force or done in a district in which martial law was not in force, in the suppression of rebellion or in furtherance of the object of martial law, or in the arrest, imprisonment, deportation, trial, conviction, or sentence of any person charged with treason, misprision of treason, conspiracy to incite or commit treason, or with any disloyal or seditious practice or act, or with any act or conspiracy dangerous to the peace or the safety of life or property, or in the arrest and detention of persons held for investigation.

§ 1540. In order to prevent any doubt which might arise whether any act alleged to have been done as aforesaid under the order or authority of the President, or to have been done *bona fide* in order to suppress insurrection, was so done, it shall be lawful for the President or his successor to declare such acts to have been done under such order or authority or *bona fide* for the purpose aforesaid; and such declaration by any writing under the hand of the President or his successor shall in all cases be conclusive evidence that such acts

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were so done, respectively; and such order or declaration may be shown under the general issue or pleaded in bar; and if so pleaded, such plea shall suffice, although it may set out merely the general effect of such order or declaration, or the fact only that such order or approval was given prior to the matter complained of or has been since received.

§ 1541. Whenever it shall be necessary or desirable for the government of Hawaii, in order to collect or recover any money or penalty, or to recover or obtain the possession of any specific property, real or personal, or to enforce any other right (except in respect to criminal prosecutions), to institute judicial proceedings, it shall, except as otherwise expressly provided by law, be competent for the attorney-general to bring and maintain a suit or suits for any such purpose in any appropriate court or courts of the Territory. All such suits shall be entitled in the name of the government of Hawaii by the attorney-general of the Territory against the party or parties or thing sued, as defendants or respondents, or as the case may be.

NOTE TO CHAPTER 98.

§§ 1530–1538 are L. R., act 26. §§ 1539–1540 are L. R., act 24. § 1541 is S. L., 1888, ch. 51, § 1.

Cases in Hawaiian Reports: Bowler v. Board Immigration, 7 Haw., 717; Widemann v. Thurston, 7 Haw., 474; Govt. v. Luce, 8 Haw., 17.

CHAPTER 99.

EMINENT DOMAIN.

§ 1542. Private property may be taken for the following purposes, which are declared to be public uses, to wit: Sites for public buildings, fortifications, magazines, arsenals, navy-yards, navy and army stations, light-houses, range and beacon lights, cemeteries, quarantine stations, pesthouses, hospitals, dumping places for garbage and refuse material, wharves, docks, piers, dams, reservoirs, and bridges; also, all necessary land over which to construct roads, canals, ditches, flumes, aqueducts, pipe lines, and sewers; also, all necessary land for the growth and protection of forests, public squares, and pleasure grounds; also, all necessary land for improving any harbor, river, or stream, removing obstructions therefrom, widening, deepening, or straightening their channels; also, all necessary land from which to obtain earth, gravel, stones, trees, timber, and all necessary material for the construction of any public work.

§ 1543. A fee-simple estate may be acquired for all the purposes mentioned in section 1542.

§ 1544. Property which may be taken by virtue of this chapter includes: All real estate belonging to any person or persons, or corporations, together with all structures and improvements thereon, franchises, or appurtenances thereunto belonging, water, water rights, and easements; also, all property heretofore appropriated to some public use: Provided, however, That in such case it must appear that the use to which said property is sought to be put is a more necessary public use than that to which it has already been appropriated.

§ 1545. The superintendent of public works, acting in his official capacity, may institute proceedings on behalf of the Territory of Hawaii for the condemnation of property as provided for in this chapter; and the superintendent of public works may be referred to in this chapter as the plaintiff.

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§ 1546. The circuit courts shall have power to try and determine all actions arising under this chapter, subject only to an appeal to the supreme court in accordance with law.

§ 1547. No property shall be taken by virtue of this chapter, unless it shall appear that it is to be put to some public use, and that the taking is necessary to such use.

§ 1548. Any agent or servant of the government may, for the purpose of locating or surveying land to be condemned in accordance with the provisions of this chapter, enter upon the same and make examinations and surveys, and such entry shall not constitute a cause of action in favor of the owner of the land, except for damages resulting from negligence on the part of such agent.

§ 1549. Actions under and by virtue of this chapter must be commenced by filing a petition and issuing a summons thereon. All persons who are owners or claimants of the property sought to be condemned must be joined as defendants: Provided, however, That in case the owner or claimant is unknown to plaintiff, it shall be sufficient if the petition includes a statement of that fact, and such defendant may be joined in the petition under a fictitious name. The petition must also contain a statement of the use to which the land sought to be condemned is to be put, a description of each and every piece of land sought to be condemned, and whether the same includes the whole or only a part of an entire tract or parcel. A map must accompany the complaint which shall correctly delineate the land sought to be condemned and its location.

§ 1550. When the defendant or claimant of the land sought to be condemned is known, the summons shall be served by delivering to him a certified copy thereof, together with a copy of the plaintiff's petition. In case the defendant or claimant, although known, can not be found, it shall be sufficient to leave said certified copy with some agent or person transacting the business of the defendant or claimant, or by leaving the same at his last known place of business or residence. In case the defendant, although known, was never a resident of the Hawaiian Islands, or has removed therefrom, or if the defendant or claimant is unknown, then the service of the summons upon such defendant or claimant may be made by publication thereof, in some newspaper published in the Hawaiian Islands, for such time as may be ordered by the court, not less than three months. The service of summons, as provided for in this section, shall be sufficient to give the court jurisdiction to proceed with and finally determine the case.

§ 1551. All property necessary for any public use may be united in one action. Any person in occupation of or having any claim or interest in any property sought to be condemned, or in the damages for the taking thereof, though not named in the complaint, may appear, plead, and defend in respect to his own property or interest, in like manner as if named in the complaint.

§ 1552. The court shall have power to determine all adverse or conflicting claims to the property sought to be condemned, and to the compensation or damages to be awarded for the taking of the same.

§ 1553. In fixing the compensation or damages to be paid for the condemnation of any property, the value of the property sought to be condemned and all improvements thereon shall be separately assessed; and if the property sought to be condemned constitutes only a portion of a larger tract, the damages which will accrue to the portion not sought to be condemned by reason of its severance from the portion

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sought to be condemned, and the construction of the improvements in the manner proposed by the plaintiff shall also be assessed; and also how much the portion not sought to be condemned will be benefited, if at all, by the construction of the improvement proposed by the plaintiff; and if the benefit shall be equal to the amount of compensation assessed for the property taken and for damages by reason of its severance from another portion of the same tract, then the owner shall be allowed no compensation; but if the benefits shall be less than the amount so assessed as damages or compensation, then the former shall be deducted from the latter, and the remainder shall be the amount awarded as such compensation or damages; but in no case shall the compensation or damages to be paid for the land sought to be condemned exceed its assessed value for the payment of taxes and twenty per cent (20 %) additional, and in no case shall the compensation or damages, if any, to be paid on account of the severance of the portion sought to be condemned from an entire tract exceed ten per cent (10 %) of the assessed value for the payment of taxes of such remaining portion.

§ 1554. The assessed value of land for the payment of taxes, as referred to in the preceding section, shall be determined by a reference to the returns made by the owner or claimant thereof for the two years next preceding the commencement of the proceeding for the condemnation of the land; and in case no returns shall have been so made by the owner or claimant of the land, then to the assessed value of the land as fixed by the assessor for the corresponding period. The average of such returns or amount as fixed by the assessor shall be considered the assessed value of the land for the purpose of computing compensation or damages to be paid by the plaintiff; and in case the land sought to be condemned shall be a part of an entire tract assessed as a whole, then the assessed value of the part taken shall be in the proportion of its value to the value of the entire tract.

§ 1555. For the purpose of assessing compensation and damages, the right thereto shall be deemed to have accrued at the date of the summons, and its actual value at that date shall be the measure of valuation of all property to be condemned and the basis of damage to property by reason of its severance from the portion not sought to be condemned, subject, however, to the provisions of section 1552.

§ 1556. If an order be made letting the plaintiff into possession, as provided for in section 1559, compensation and damages awarded shall draw lawful interest from the date of such order. No improvement put on the property subsequent to the date of the service of the summons shall be included in the assessment of compensation or damages.

§ 1557. The plaintiff must within two years after final judgment pay the amount assessed as compensation or damages; and upon failure so to do all rights which may have been obtained by such judgment shall be lost to the plaintiff; and if such payment shall be delayed more than thirty days after final judgment, then interest shall be added at the rate of seven per cent (7 %) per annum. Such payment shall be made to the clerk of the court rendering the judgment, who shall distribute the same in accordance with the order of the court. If the plaintiff shall fail to make such payment as aforesaid, the defendant shall be entitled to recover his costs of court, reasonable expenses and such damage as may have been sustained by him by reason of the bringing of the action.

§ 1558. When all payments required by the final judgment have been made, the court shall make a final order of condemnation, which must describe the property condemned and the purposes of such con-

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demnation, a certified copy of which must be filed and recorded in the office of the registrar of conveyances, and thereupon the property described shall vest in the plaintiff.

§ 1559. At any time after judgment has been rendered in the circuit court for or in favor of the plaintiff, or pending an appeal to the supreme court by either plaintiff or defendant; the plaintiff may be put into possession of the land sought to be condemned upon the payment into the court of the amount assessed as compensation or damages, subject, however, to the payment of such further compensation or damages as may be subsequently awarded. Upon the payment of the money assessed as compensation or damages as aforesaid, the court shall make an order putting plaintiff into possession of the property sought to be condemned with the right to use the same during pendency of and until the final conclusion of the litigation.

The defendant who is entitled to the money paid into the court as aforesaid shall have the right to demand and receive payment of the same at any time thereafter upon filing a receipt therefor to the satisfaction of all claims on the lands sought to be condemned. Upon such payment being made to the defendant the court shall make the final order of condemnation as provided for in section 1556.

§ 1560. Where not expressly provided in this chapter, the procedure shall be the same as in other civil actions.

NOTE TO CHAPTER 99.

§§ 1542–1543, 1545–1560 are S. L. 1896, act 45. § 1544 is S. L. 1898, act 62.
Special acts of eminent domain: Highways, see ch. 22.
Honolulu water works, ch. 41.
Land on Molokai, P. L., §§ 1006–1020.
Land condemned by board of health, P. L., § 946.

CHAPTER 100.

LANDINGS.

§ 1561. The superintendent of public works is hereby directed to prepare a schedule of all landings in the Territory and to ascertain the title of the government to the same and the easements and rights of way therein, vested in the public by reason of dedication on the part of the owners of land upon which such landings are situated or by reason of use on the part of the public.

§ 1562. If in any case the owners of the land upon which the landing is situated shall deny the right of the public to use such landing, the said superintendent shall cause full inquiry and investigation to be made into the subject, and if, after such investigation, he shall be of the opinion that the public is entitled to an easement in such landing, he shall bring such matter before a court of competent jurisdiction to settle such question.

The method of procedure to be pursued in settling any such question shall be the same as that prescribed in chapter 113 for the quieting of titles, estates, and interests in real property.

§ 1563. As soon as the schedule of landings in which the rights of the public are not disputed is ready, the said superintendent shall publish such schedule in the English and Hawaiian languages; and shall, from time to time, publish the names of the landings, easements in which shall have been determined by the courts to be vested in the public.

§ 1564. No person shall be prevented from using any landing belong-

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ing to the government, or in which the public own an easement, or shall be obliged to pay anyone but the government for the use of such landing. But in case it is necessary to use hoisting apparatus in order to utilize such landing, and freight shall be hoisted by private parties, nothing in this chapter contained shall be construed to prevent such person so hoisting such freight from making reasonable charge for such hoisting.

NOTE TO CHAPTER 100.

§§ 1561-1564 are S. L. 1892, ch. 44.

CHAPTER 101.

ESCHEAT OF LANDS.

§ 1565. In all cases where real property escheats by law to the government of Hawaii, the attorney-general of the Territory shall file an information in the supreme court, setting forth the facts upon which the claim of the government of Hawaii to such escheat is based.

The court thereupon shall cause summons to be issued as in other actions at law, which summons the attorney-general shall cause to be served upon any party in possession of the property, and shall also cause a copy thereof to be published for the space of three months in a newspaper of general circulation published in Honolulu. Upon the hearing of the matter, if the court shall find the facts averred in the information substantiated by proof and sufficient in law, it shall make and cause to be entered a decree declaring such property an escheat to the government of Hawaii.

§ 1566. In all actions provided for in section 1565, the following shall be conclusive presumptions of facts:

1. That the person who last owned the property has died intestate, if it be shown that such owner has been absent from the Hawaiian Islands and not been heard of for the space of fifteen years, and has neither in person nor through any agent thereto authorized in writing, nor through any tenant occupying the premises in question under a valid lease, had possession or exercised dominion over such premises during that time, and that no application for letters testamentary or of administration have been filed in any court within the Territory having jurisdiction of probate proceedings within said time.

2. That the person who last owned the property has left no kindred, if it be shown that no person claiming to be kin has made claim to such property within five years after the lapse of the fifteen years in this section before mentioned.

§ 1567. In such actions as are in this chapter provided for no person shall be allowed to defend against the government of Hawaii on the ground of being in possession of the property unless he shall prove that he is in possession under color of title, or has been in adverse possession thereof for a period not less than twenty years and that the government taxes upon said property have been paid by him during the last six years of said period.

§ 1568. If a decree be entered in favor of the government of Hawaii, the attorney-general shall cause the premises to be sold at public auction, and the proceeds of such sale, after deducting all costs and expenses, shall be deposited in the Hawaiian treasury and there abide the claim of any heir or other person thereto lawfully entitled: Provided, That no claim to such proceeds shall be allowed unless such claim be made within five years after such deposit.

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§ 1569. Any person claiming the proceeds of sale of escheated property may present his petition to the supreme court in that behalf, notice whereof shall be given to the attorney-general, who may appear and defend on behalf of the government of Hawaii; and if said court render a judgment in favor of such person the treasurer shall pay such proceeds to such person, with interest not to exceed six per cent per annum.

NOTE TO CHAPTER 101.

§§ 1565–1569 are S. L. 1888, ch. 8.

[*CHAPTER 102.*]

[§§ 1570–1587.]

CHAPTER 103.

ARBITRATION.

§ 1588. All controversies which might be the subject of a personal action at law, or of a suit in equity, may be submitted to the decision of one or more arbitrators, in the manner provided in this chapter.

§ 1589. The parties to any controversy may agree in writing to submit the same to the decision of one or more arbitrators, named in the agreement, or to be appointed in such manner as the parties shall agree upon, stipulating that the award of such arbitrators when rendered shall be entered up as a judgment of any court of record or district court of the Territory mentioned in such agreement.

§ 1590. The parties shall appear personally, or by attorney, before the district magistrate, or any justice of the court of record, agreed upon, and upon their acknowledging the execution of the written submission, and producing the same before such magistrate or justice, he shall cause the same to be entered as a rule of court; after which neither party shall have a right to revoke the submission, without the consent of the other.

§ 1591. All the matters submitted to the decision of the arbitrators shall be specified in the agreement of submission or in a written statement annexed thereto.

§ 1592. The parties may stipulate in the agreement of submission as to the time within which the award is to be made and reported to the court, and no award made after that time shall be held to bind the parties, unless by their mutual consent before the court.

§ 1593. The arbitrators shall give notice to the parties of the time and place appointed for hearing, and if either of the parties shall neglect to appear before the arbitrators, after due notice, the arbitrators may proceed to hear and determine the cause upon the evidence produced by the other party.

§ 1594. All the arbitrators must meet and hear the parties, but a majority of them may make the award, which shall be as valid as if signed by all of them, unless the concurrence of the whole be expressly required in the submission.

§ 1595. The award shall be delivered by one of the arbitrators to the district magistrate, or to the clerk of the court of record, by whom the submission was made a rule of court.

§ 1596. If there is no provision in the submission concerning the costs of the proceedings, the arbitrators may make such award respecting the costs as they shall judge reasonable, including a compensation for their own services; but the court may reduce the sum

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charged for the compensation of the arbitrators if it shall appear to the court unreasonable.

§ 1597. Upon the coming in of the award either party may, after four days' notice to the other party, move the district magistrate, or any justice of the court of record, as the case may be, to cause the award to be entered up as a judgment of court; and unless the other party shall satisfy the justice that the award has not been made in accordance with the terms of the submission, or that it has been made by collusion or fraud, he shall cause the same to be entered up as a judgment of court; but if the opposing party sustains his objections to the satisfaction of the justice, he shall declare the award null and void.

§ 1598. After such award has been entered up as a judgment of court execution may be issued thereon as in other cases.

§ 1599. Any party deeming himself aggrieved by the decision of the justice before whom motion is made for judgment upon the award may take an appeal to the supreme court, in *banco*, upon filing written notice of his intention so to appeal within five days after the rendition of such decision.

NOTE TO CHAPTER 103.

§§ 1588–1599 are C. L., §§ 925–936.
Cases in Hawaiian Reports: Merrill v. Lenehan, 4 Haw., 670; Thomas v. Lunalilo, 5 Haw., 39; Bankruptcy Johnson, 8 Haw., 732.

CHAPTER 104.

EXTRAORDINARY LEGAL REMEDIES.

I. WRIT OF MANDAMUS.

§ 1600. This is an order issuing in the name of the Government, by the supreme court in term or any justice thereof in vacation, or by a circuit judge, and addressed to an individual or corporation or court of inferior jurisdiction, directing him or it to perform some certain act belonging to the place, duty, or quality with which he or it is clothed.

§ 1601. The object of this order is to prevent a denial of justice, and it therefore issues in all cases where the law has assigned no specific relief by the ordinary means, or even where a party has other means of relief, if the slowness of ordinary legal forms is likely to produce such a delay that the public good and the administration of justice will suffer from it, and where justice and reason require that some mode should exist of redressing a wrong or an abuse of any nature whatever.

§ 1602. The order may be directed to individuals, whether holding offices or not; to corporations, and to judges of inferior tribunals.

§ 1603. It may be directed to a simple individual, as to the heir or other legal representative of a deceased public officer, or to such officer himself, if he be alive or has resigned or has been removed, to compel him to deliver to the successor of such officer the papers and other effects belonging to his office.

§ 1604. It may be directed to public officers to compel them to fulfill any of the duties attached to their office or which may be legally required of them.

§ 1605. It may be directed to all corporations established by law—

I. To compel them to make elections and to perform the other duties required by their charter.

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II. To compel them to receive or restore to their functions such of their members as they shall have refused to receive, although legally chosen, or whom they shall have removed without sufficient cause.

§ 1606. It may be directed to judges of inferior courts commanding them to render justice and to perform the other duties of their office conformably to law.

§ 1607. In this last case the order of writ of mandamus issues, not only when the judges of inferior courts are guilty of a denial of justice or unreasonable delay in pronouncing judgment on causes before them, but also if they refuse or neglect to perform any of the duties required of them by law.

§ 1608. The party wishing to obtain an order in any of the cases before mentioned must apply by petition addressed to the judges of the supreme court, or if in vacation to any single justice thereof, or to a circuit judge, stating the nature of his right or of the injury he sustains, or of the denial of justice which he experiences, which petition shall be sworn to by the party or by some person on his behalf cognizant of the facts.

§ 1609. The court or judge, if sufficient ground is shown, shall issue an order addressed to the party against whom the complaint is made, by which he shall be directed to do what has been demanded of him or show cause to the contrary, within a certain time after the service of the order, to be fixed by the court or judge.

§ 1610. If on the day assigned for answering the order the party to whom it is directed answers and shows sufficient reasons to justify his conduct, the complaint shall be dismissed and the petitioner shall pay the costs occasioned by the application.

§ 1611. But if the party shall fail to appear and show cause, or if the cause shown shall be deemed insufficent, then a peremptory mandate shall issue to do the thing absolutely and to pay the cost of the proceedings, to which no other return shall be admitted but a certificate of perfect obedience and due execution of the writ. If the party does not obey, an order of arrest may issue, upon due proof of the service of the writ, under which the party shall be imprisoned until he has rendered obedience to the mandate.

§ 1612. When the mandate directing the performance of a specified act shall have issued against a corporation, the notice may be served upon the presiding officer, secretary, clerk, or treasurer of such corporation, and if the corporation or the body of the directors disobey the order, it shall be punished for the contempt by the sequestration of its property until it yield obedience to the mandate.

§ 1613. The writ or order may be served by the chief sheriff or any sheriff or other peace officer, and service may be effected by delivering to the party on whom the writ or order is directed a true and certified copy thereof, and at the same time showing to him the original.

II.—Writ of Prohibition.

§ 1614. This is a mandate which issues in the name of the Government from the supreme court in term, or from any justice thereof in vacation, or from a circuit judge, directed to the judge and the party suing in any inferior court, forbidding them to proceed any further in the cause, on the ground that the cognizance of the said cause does not belong to such court, or that the cause or some collateral matter arising therein is beyond its jurisdiction, or that it is not competent to decide it.

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§ 1615. The defendant who applies for this writ shall apply by petition addressed to the judges of the supreme court, or if in vacation to any single justice thereof, or to a circuit judge, stating the cause and nature of the action brought against him, and showing that the inferior court is not competent to try it, or that it has exceeded its jurisdiction in the trial or hearing of such action, which petition shall be verified by the oath of the applicant or by some person on his behalf cognizant of the facts.

§ 1616. The court or judge, if sufficient ground is shown, shall issue an order forbidding the judge to take cognizance of the cause, and forbidding the plaintiff or party prosecuting to prosecute it further.

§ 1617. When on being served with such order the inferior judge acknowledges he has no jurisdiction, he shall abstain from proceeding further in the case.

§ 1618. But if the judge, or the plaintiff or party prosecuting, shall believe the inferior court is competent, he or they may file a written answer to the order, after which the court or justice issuing it shall pronounce summarily on the matter; and if the court or judge shall be of opinion that the applicant has made out his case, the prohibition shall be made perpetual, otherwise it shall allow the inferior judge to proceed to the trial and judgment of the case.

§ 1619. If an inferior judge has rendered judgment in any of the cases before mentioned and the execution has issued, the order may be directed as well to the plaintiff or party prosecuting as to the officer charged with the execution, forbidding them to proceed in the execution in the same manner as if the prohibition had been addressed to the judge before issuing the execution.

§ 1620. The plaintiff or party prosecuting may reply to the order in the same manner as above directed for obtaining judgment with regard to the jurisdiction of the inferior judge.

§ 1621. The costs shall be awarded to the parties according to the ultimate event of the application.

§ 1622. The order may be served in like manner as before provided with respect to the writ of mandamus.

§ 1623. If in contempt of the order the judge or the party shall proceed any further in the suit, the superior tribunal shall cause them to be arrested and shall punish them for such contempt, and the opposite party shall have an action for his damages against them.

III.—Writ of Certiorari.

§ 1624. This also is an order issuing in the name of the government by the supreme court in term or any justice thereof in vacation, or by a circuit judge, and directed to an inferior judge commanding him to send to the supreme court a certified copy of the proceedings in a suit pending before him, to the end that their validity may be ascertained.

§ 1625. This mandate concludes by enjoining the inferior judge to proceed no further in the case until judgment shall be pronounced on the regularity of his proceedings.

§ 1626. This mandate is only granted in cases where the suit is to be decided in the last resort, and where no appeal lies by means of which proceedings absolutely void may be set aside, as when the inferior judge has refused to hear the party or his witnesses, or has pronounced sentence without having cited him to appear.

§ 1627. The party wishing to obtain this mandate shall address his petition to the supreme court in term, or any justice thereof in vaca-

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tion, or to a circuit judge, in which he shall state the causes of nullity of the acts done by the lower court to his prejudice.

§ 1628. The truth of the facts contained in the petition shall be sworn to by the complainant or by some person cognizant of the facts on his behalf, but with respect to the nullities alleged he need only affirm their existence to the best of his knowledge.

§ 1629. The inferior judge to whom this mandate is directed shall immediately send to the supreme court, or to the justice thereof, or to the circuit judge, by whose order the mandate was issued, a certified copy of the record called for, which copy shall be sealed with the seal of the court, if it have one.

§ 1630. If after the service of the mandate and the injunction contained in it the inferior judge does not send the copy of the record called for, or if he proceeds further in the cause, an order of arrest may issue, upon due proof of the service of the writ, under which the inferior judge may be imprisoned until he shall have obeyed the mandate directed to him.

§ 1631. The mere service of the order to send up the record renders void every act which may have been subsequently performed by the judge to whom it was directed, or by his order.

§ 1632. If upon examining the record thus sent it shall appear to the supreme court, or to the justice thereof, or to the circuit judge by whose order the mandate was issued, that the proceedings are null and void, and have not been sanctioned by the party complaining of them, the court or judge shall avoid the proceedings, and may direct the inferior judge to try the case anew in conformity to law.

§ 1633. If the supreme court or the said justice or judge finds that the proceedings have been regular, or that the party has waived his objection to them, the order shall be dissolved, with costs to be paid by the party who applied for it.

§ 1634. The order may be served in like manner as before provided with respect to the writ of mandamus.

IV.—Writ of Quo Warranto.

§ 1635. This also is an order issuing in the name of the government by the supreme court in term or by any justice thereof in vacation, or by a circuit judge, and directed to a person who claims or usurps an office in a corporation, inquiring by what authority he claims to hold such office.

§ 1636. It may also be granted upon the application of the attorney-general against individuals acting as a corporation without being legally incorporated, and against any corporate body offending against the provisions of any law relating to such corporation, for misuser, for nonuser, for doing or omitting any acts amounting to a surrender of its charter, and for exercising rights not conferred upon it.

§ 1637. The order is obtained by petition addressed to the supeme court in term, or any justice thereof in vacation, or a circuit judge, setting out facts sufficient to show a right to the order, and sworn to if the application is made by a private individual.

§ 1638. The party to whom the order is directed shall file his answer in writing, within the time limited by the order, and state the authority under which he claims to act.

§ 1639. If the party to whom the order is directed does not answer within the time allowed, the court or justice, as the case may be, shall declare him not qualified to fill the office of which he performs the

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duties, and shall forbid him to perform them any longer, shall condemn him to pay the costs, and shall direct the corporation to proceed to a new appointment.

§ 1640. But if the person to whom the order is directed answer within the time allowed, judgment shall be pronounced upon the answer in a summary manner, and after hearing the parties, if the court or judge who issued the order thinks that the person to whom the mandate was directed has usurped the office which he holds, or that he continues in it unlawfully, judgment shall be rendered against him in the manner provided in the preceding article, otherwise the petition shall be dismissed with costs to be paid by the applicant.

§ 1641. In all cases contemplated by article 4th judgment shall be given according to the nature of the complaint made: Provided, however, That in the event of the application being dismissed the attorney-general shall not be ordered to pay costs.

§ 1642. The writ or order shall be served in like manner as before provided with respect to the writ of mandamus.

§ 1643. Where the legislature has granted to a corporation the right to determine the validity of the elections of its members or officers, a writ shall not be issued for the purpose of inquiring into that fact.

§ 1644. When writs of mandamus, prohibition, certiorari, or quo warranto are issued by a justice in vacation, the same may, in his discretion, be made returnable before him or before the supreme court at the next ensuing term thereof.

NOTE TO CHAPTER 104.

§§ 1600–1644 are S. L. 1876, ch. 39, C. L., p. 587.

Cases in Hawaiian Reports: *Mandamus:* Castle v. Kapena, 5 Haw., 36; Riemenschneider v. Wilson, 6 Haw., 379; Peacock v. Coll. of Customs, 8 Haw., 531; Brown v. Spencer, 8 Haw., 543; Hospital v. Collector, 9 Haw., 581; Spreckles v. First Judge, 10 Haw., 198; Hackfeld v. King, 11 Haw., 5. *Prohibition:* Re Hobron, 6 Haw., 409; Kona Coffee Co. v. Circuit Court, 10 Haw., 571. *Certiorari:* Mattos v. Wilcox, 10 Haw., 186; Aldrich v. First Judge, 9 Haw., 471. *Quo warranto:* Kilauea v. Macfie, 5 Haw., 4; Canairo v. Serrao, 11 Haw., 22.

CHAPTER 105.

THE WRIT OF HABEAS CORPUS.

§ 1645. Every person restrained of his liberty, except in the cases mentioned in the following section, may prosecute as of right a writ of *habeas corpus*, according to the provisions of this chapter, to obtain relief from such restraint, if unlawful.

§ 1646. The following persons shall not be entitled, as of right, to demand and prosecute the said writ:

First. Persons committed for treason or felony, or for suspicion thereof, or as accessories before the fact to a felony, when the cause is plainly and specially expressed in the warrant of commitment, unless when excessive and unreasonable bail is required.

Second. Persons convicted, or in execution upon legal process, civil or criminal.

Third. Persons committed on mesne process, in any civil action, on which they are liable to be arrested and imprisoned, unless when excessive and unreasonable bail is required.

§ 1647. Application for such writ shall be made to the court of justice authorized to issue the same, by complaint in writing, signed by the party for whose relief it is intended or by some person in his behalf, setting forth:

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First. The person by whom, and the place where, the party is imprisoned or restrained, naming the prisoner and the person detaining him, if their names are known, and describing them if they are not known.

Second. The cause or pretence of imprisonment or restraint, according to the knowledge and belief of the applicant.

Third. If the imprisonment or restraint is by virtue of any warrant or other process, a copy thereof shall be annexed, unless it shall be made to appear that a sufficient reason exists for not annexing the same.

Fourth. The facts alleged shall be verified by the oath of some credible person, to be administered by any person authorized to administer oaths.

§ 1648. The court or justice to whom such complaint shall be made shall, without delay, award and issue a writ of *habeas corpus*, which may be in the following form:

[STAMP.]

Government of Hawaii to ————, *greeting:*

We command you that immediately upon the receipt of this writ you have and produce before ———, at ———, the body of ———, who is unjustly imprisoned and restrained of his liberty, as it is said, to do and receive what shall then and there be considered concerning him in this behalf.

And have you there this writ, with your doings thereon.

Witness the honorable ———, at ———, this —— day of ———, in the year one thousand eight hundred and ———.

[SEAL.] Justice of ———.

§ 1649 When the writ is issued out of court it shall be signed by the presiding justice; otherwise, it shall be signed by the justice issuing the same.

§ 1650. The court of justice issuing such writ shall have power to issue subpœnas to compel the attendance of witnesses or the production of any documents.

§ 1651. Whenever the writ shall be issued by any circuit judge the same may be made returnable before himself, or before the circuit court, or the supreme court, or any justice thereof.

§ 1652. Whenever the writ is returnable before the court, and the court shall be adjourned before it is returned, the return may be made before any justice of said court; and if the writ is in any case returnable before one judge when the court of which he is a member is in session, he may adjourn the case into court, to be there heard and determined in the same manner as if the writ had been returned into the same court.

§ 1653. If the name of the person by whom the prisoner is alleged to be restrained of his liberty is unknown or uncertain, he may be described by an assumed appellation, and whoever shall be served with the writ shall be deemed to be the person intended thereby.

§ 1654. The person to be produced shall be designated by his name, if known, and if that is not known or is uncertain, he may be designated in any other manner, so that it can be known who is the person intended.

§ 1655. If the party is confined in any prison, or is in the custody of any civil officer, the court or judge granting the writ shall certify thereon the sum to be paid for the expense of bringing him from the

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place of imprisonment, and the officer to whom the same is directed shall not be bound to obey it, unless that sum be paid or tendered to him. But this section shall not be construed to require the payment in all cases of the full statute fees, but the court in its discretion may require the payment of any sum less than the statute fees, and the residue shall be paid as in cases of the service of criminal process.

§ 1656. Any person to whom a writ of *habeas corpus* shall be directed shall, upon payment or tender of reasonable charges and expenses for its execution, make return thereof with as much promptness as the nature of the case will permit.

§ 1657. The party making the return shall state therein, in writing, plainly and unequivocally:

First. Whether he has or has not that party in his custody or power, or in any manner under his restraint or control.

Second. If he has the party in his custody or power, or under his restraint or control, he shall set forth at large the authority, and the time and whole cause of such imprisonment or restraint, with a copy of any process or warrant under which the party is detained.

Third. If he has had the party in his custody or power, or under his restraint or control, and has transferred such custody, restraint, or control to another, or if he has any knowledge or suspicion that any other person exercises or claims to exercise such custody, power, restraint, or control, he shall state all that he knows or suspects.

And no return shall be adjudged sufficient when the respondent has once held the party in his custody or power, or under his restraint or control, unless it states fully all that the respondent knows or suspects, or alleges unequivocally that he neither knows nor suspects nor has any cause to suspect anything as to the custody or restraint of the party alleged to be detained, up to the time of making such return.

§ 1658. The return shall be signed by the person making it, and sworn to by him, unless he is a sworn public officer making the return in his official capacity. Such return shall be evidence in the case, but not conclusive.

§ 1659. The person making the return shall bring the body of the party, if in his custody or power or under his restraint or control, according to the command in the writ, unless prevented by the sickness or infirmity of the party. But this shall not prevent the party making the return, if a private person, from demanding in advance actual necessary expenses of travel and transportation.

§ 1660. When from sickness or infirmity of the party he can not properly be brought to the place appointed for the return, that fact shall be set forth, and if verified by affidavit and established to the satisfaction of the court or judge, the hearing may be adjourned to such other time or place, or such order may be made as justice may require.

§ 1661. Upon the return of the writ the court or justice shall proceed without delay to examine the causes of imprisonment or restraint; but the examination may be adjourned from time to time as circumstances may reasonably require.

§ 1662. If the party is detained on any process under which any other person, who can be notified without unreasonable delay, provided such person or his attorney be within the Territory, has any interest in his detention, the party shall not be discharged until such party or his attorney shall have had an opportunity to be heard.

§ 1663. If the party is imprisoned on any criminal accusation reason-

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able notice shall be given to the attorney-general or his deputy, lawfully appointed, to appear and object if he thinks fit.

§ 1664. The party imprisoned or restrained may deny any of the facts set forth in the return and may allege other material facts, and the court shall proceed in a summary way to examine the causes of imprisonment or restraint and to hear evidence which may be offered by any person interested or authorized to appear, both in support of such imprisonment or restraint or against it, and thereupon to dispose of the party as law and justice may require.

§ 1665. If no legal cause for the imprisonment or restraint shall be shown, the party shall be immediately discharged therefrom.

§ 1666. If the party is detained for any cause or offense for which he is liable, he shall be admitted to bail if sufficient bail be offered, and, if not, he shall be remanded with an order of the court or justice expressing the sum in which he shall be held to bail and the court at which he shall be required to appear.

§ 1667. If the party is committed on mesne process in any civil action for want of bail, and the bail which is required shall appear to be excessive or unreasonable, the court or justice shall decide what bail is reasonable and shall order that upon giving such bail the party shall be discharged.

§ 1668. If the party is lawfully imprisoned or restrained and is not entitled to be enlarged on bail, he shall be remanded to the person or officer having lawful authority to detain him.

§ 1669. Until judgment be given, the court or justice may remand the party or accept bail for his appearance from day to day, or may place him under special care and custody, as circumstances may require.

§ 7670. Any person who shall neglect or refuse promptly to perform any duty imposed upon him by virtue of any writ of *habeas corpus*, conformably to the provisions of this act, shall be responsible in a civil action to any person aggrieved for damages occasioned thereby, and may be punished in any court of competent jurisdiction by fine not exceeding five thousand dollars, or by imprisonment at hard labor not exceeding ten years, or both, in the discretion of the court.

§ 1671. The liabilities and penalties of the preceding section shall also be imposed upon any person who, having in his custody or under his power, any person entitled to a writ of *habeas corpus*, and who shall, with intent to elude the service of such writ, or to avoid the effect thereof, transfer such person to the custody or place him under the control or power of any other person, or conceal him or change his place of confinement.

§ 1672. Whenever it shall appear by satisfactory proof by affidavit or otherwise to any court or justice authorized by law to issue writs of *habeas corpus*, that any one is illegally held in custody, confinement, or restraint, and that there is good reason to believe that such person will be carried out of the jurisdiction of such court or justice, or will suffer some irreparable injury before compliance with a writ of *habeas corpus* can be enforced, such court or justice may cause a warrant to be issued, reciting the facts and directed to the chief sheriff or his deputy, or to any constable commanding such officer to take such person thus held in custody, confinement, or restraint and forthwith bring him before such court or justice and held there until a writ of *habeas corpus* can be duly issued and served, after which the party alleged to be illegally restrained shall be deemed to be before the court in obedience to such writ.

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§ 1673. Any writ or process authorized by this chapter may be issued or served on Sunday.

§ 1674. No person who has been discharged upon a writ of *habeas corpus* shall be again imprisoned or restrained for the same cause, unless he shall be indicted therefor or convicted thereof, or committed for want of bail by some court of record having jurisdiction of the cause, or unless after a discharge for default of proof, or for some material default in the commitment in a criminal case, he shall be again arrested on sufficient proof, and committed by legal process for the same offense.

§ 1675. Nothing in this chapter shall be construed to restrain the power of any court of record to issue a writ of *habeas corpus ad respondendum*, when necessary, to bring before them any prisoner for trial in any criminal cause lawfully pending in such court, or a writ of *habeas corpus ad testificandum*, to bring in any prisoner to be examined as a witness in any suit or proceeding, civil or criminal, pending in such court, when they shall think the personal attendance and examination of the witness necessary for the attainment of justice. Such may be issued by any court of record in the exercise of a sound discretion and with due regard to conflicting interests and liabilities, anything in this chapter to the contrary notwithstanding.

§ 1676. Nothing in this chapter shall be construed to restrain the power of the supreme court or any justice thereof, at their discretion, to issue a writ of *habeas corpus ad subjiciendum* in case where it is not demandable of right, and thereupon to bail any person, for whatever cause he may be committed or restrained, or to discharge him, as law and justice may require.

§ 1677. The several circuit courts and the several circuit judges at chambers shall, within their respective circuits, have power to issue writs of *habeas corpus* as well in cases in which such writs are not demandable of right as in cases in which the same are issued as of right, within the provisions of this chapter.

[§ 1678.]

NOTE TO CHAPTER 105.

§§ 1645–1676 are S. L. 1870, ch. 32, C. L., p. 398. § 1677 is P. G. Act 75, amending § 1676.

Cases in Hawaiian Reports: Re Apuna, 6 Haw., 734; Re Man Min, 7 Haw., 460; Re Matsuji, 9 Haw., 402; Re Kalanianaole, 10 Haw., 29; Re Hoopai, 10 Haw., 610; Re Tatsu, 10 Haw., 701.

CHAPTER 106.

REMEDIES OF LANDLORDS.

SUMMARY PROCEEDINGS TO RECOVER LAND.

§ 1679. Whenever any lessee or tenant of any lands or tenements, or any person holding under such lessee or tenant, shall hold possession of such lands or tenements without right, after the determination of such tenancy, either by efflux of time or by reason of any forfeiture, under the conditions or covenants in any such lease, or, if a tenant by parole, by a notice to quit of at least ten days, the person entitled to such premises may be restored to the possession thereof in manner hereinafter provided.

§ 1680. The person entitled to the possession of the premises may apply to any district magistrate for a writ, in the form used for an original summons in common civil actions before such magistrate, in

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which the defendant shall be summoned to answer the complaint of the plaintiff, for that the defendant is in the possession of the lands or tenements in question, describing them, which he holds unlawfully and against the right of the plaintiff, and no other declaration shall be recognized.

§ 1681. Such summons shall be served either—

1. By delivering to the tenant to whom it shall be directed a true copy thereof, and at the same time showing him the original, or,

2. If such tenant be absent from his last or usual place of residence, by leaving a copy thereof at such place with some person of mature age residing in the premises.

§ 1682. The summons shall be returnable within such time as shall appear reasonable to the magistrate, not less than three nor more than five days; and the suit shall be conducted like other civil actions before such magistrate.

§ 1683. If the defendant shall be defaulted, or if on the trial it shall be proved to the satisfaction of the magistrate that the plaintiff is entitled to the possession of the premises, he shall have judgment for the possession thereof and for his costs, and execution shall issue accordingly.

The writ of possession shall issue to the chief sheriff or to any sheriff or constable of the city or district where the premises are situated, commanding him to remove all persons from said premises, and to put the plaintiff or his agent into the full possession thereof.

§ 1684. The officer to whom such warrant for delivering possession shall be directed and delivered is hereby required to execute the same according to the tenor thereof.

§ 1685. Whenever a warrant shall be issued as aforesaid for the removal of any tenant, the contract for the use of the premises, if any such exists, and the relation of landlord and tenant between the parties, shall be deemed to be cancelled and annulled.

§ 1686. The issuing of such warrant of removal shall be stayed in the case of a proceeding for the nonpayment of rent, if the person owing such rent shall, before such warrant be actually issued, pay the rent due and all the costs and charges of the proceedings, or give such security for the payment thereof, within five days, as shall be satisfactory to the magistrate or to the plaintiff.

§ 1687. Any magistrate before whom a suit may be pending for the recovery of premises may, upon the request of either party, adjourn the hearing of the suit for the purpose of enabling such party to procure his witnesses, when it shall appear to be necessary; but such adjournment shall in no case exceed five days.

§ 1688. When the defendant is proceeded against for the nonpayment of rent and the magistrate decides that the plaintiff should have possession, the defendant shall not be allowed to keep possession and take his appeal, unless he first gives a bond to the plaintiff, with good and sufficient surety or sureties, to pay all rent that may accrue and become due after the appeal, provided it shall be finally determined that the plaintiff was entitled to the possession.

§ 1689. If any tenant, being in arrear for rent, shall desert the demised premises and leave the same unoccupied and uncultivated, any district magistrate may, at the request of the landlord and upon due proof that the premises have been so deserted by such tenant, leaving rent in arrear, go upon and view said premises; and upon being satisfied upon such view that the premises have been so deserted, he shall affix a notice in writing upon a conspicuous part of the prem-

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ises requiring the tenant to appear and pay the rent due at some time in the notice specified, not less than ten nor more than thirty days after the date thereof.

§ 1690. At the time specified in such notice the magistrate shall again view the premises, and if the tenant shall appear and pay the rent, or deny that any rent is due to the landlord, all proceedings shall cease. If, upon the second view, the tenant or his agent shall not appear and pay the rent in arrear or deny that any rent is due, then said magistrate may put the landlord into possession of the premises, and any demise of the premises to such tenant shall from thenceforth become void.

§ 1691. An appeal from the proceedings of any magistrate under the last two preceding sections may be taken by the tenant to any circuit judge at chambers, or to the supreme court, at any time within one month after possession delivered, by serving notice in writing thereof upon such magistrate and by giving a bond in the sum of one hundred dollars, with good and sufficient sureties, to be approved by the magistrate, to pay to the landlord all costs of such appeal which may be adjudged against the tenant, and thereupon such magistrate shall send up a copy of the proceeding had before him within ten days after appeals.

RECOVERY OF RENTS.

§ 1692. Whenever any tenant or subtenant of any lands, tenements, or premises held by him, either by written or parole contract, for any term at a rent stipulated by such contract, shall make default in payment of such rent and allow the same to become in arrears, it shall be lawful for the landlord or party entitled to such rent to enter upon and into such lands, tenements, or premises in respect to which such rent shall be in arrears, without any legal process, and there to distrain and remove to a place of safe custody any goods and chattels of such defaulting tenant found on such premises to satisfy such arrears; and in case of nonpayment of such arrears and costs of such distress and removal within fifteen days after such distress and removal, it shall be lawful for such landlord or party making such distress at the expiration of fifteen days' public notice to cause such goods and chattels to be sold at public auction, and to apply the proceeds of such sale to the payment of such arrears as shall be due at the time of such sale, together with the costs of such distress, removal, custody, and sale, paying over to such tenant such surplus of such proceeds, if any, as shall be remaining after the payments aforesaid.

§ 1693. No goods or chattels of any tenant or occupier of any lands, tenements, or premises held by such tenant or occupier under any such contract as above mentioned shall be liable to be taken on execution on any pretence whatsoever, unless the party at whose suit such execution shall be sued out shall, before the removal of such goods under such execution, pay to such landlord or owner of such premises all such arrears of rent as shall be due to him thereanent; provided such arrears of rent do not exceed one year, if such tenancy be by the year; and in case such tenancy shall be by the week or month, such landlord or owner shall not have any lien or claim on such goods for any arrears of rent accruing during four of such weekly or monthly terms.

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NOTE TO CHAPTER 106.

§§ 1679–1691 are C. L., §§ 939–947, §§ 949–952. §§ 1692–1693 are S. L., 1864, C. L., p. 277.

Cases in Hawaiian Reports: Kaaihue v. Crabbe, 3 Haw., 768; Coney v. Mamele, 4 Haw., 154; Kong Kee v. Kahalekou, 5 Haw., 548; Tregloan v. Bertelmann, 5 Haw., 603; Bankruptcy Ching On, 6 Haw., 287; Re Hobron, 6 Haw., 408; Bankruptcy On Chong, 7 Haw., 377; Wundenberg v. Campbell, 9 Haw., 206; Kualana v. Yong Young, 9 Haw., 226; Cartwright v. Widemann, 9 Haw., 692; Henrique v. Paris, 10 Haw., 408; Widemann v. Thomas, 10 Haw., 366.

CHAPTER 107.

RECOVERY OF PERSONAL PROPERTY.

§ 1694. The plaintiff in action to recover the possession of personal property may, at the time of issuing the summons or at any time before issue being joined in such action, claim the delivery to him of such property, as provided in this chapter.

§ 1695. Where a delivery is claimed, an affidavit shall be made by the plaintiff, or by some one in his behalf, showing:

1st. That the plaintiff is the owner of the property claimed (particularly describing it) or is lawfully entitled to the possession thereof.

2nd. That the property is unlawfully detained by the defendant.

3rd. That the same has not been taken for a tax, assessment, or fine pursuant to a statute, or seized under an execution or an attachment against the property of the plaintiff, or if so seized, that it is by the statute, exempt from such seizure.

4th. The actual value of the property.

§ 1696. The plaintiff or his attorney may thereupon, by an endorsement in writing upon the affidavit, or by other written request thereto attached, require the chief sheriff or his deputy, or the sheriff of the island where the suit is brought or his deputy, to take the property from the defendant: Provided, That no property shall be taken by virtue of this chapter beyond the jurisdiction of the court from which such process issues.

§ 1697. Upon receipt of the affidavit and notice, with a written undertaking executed by two or more sufficient sureties approved by the chief sheriff or by his deputy, or by such said sheriff or by his deputy, to the effect that they are bound to the defendant in double the value of the property, as stated in the affidavit, for the prosecution of the action, for the return of the property to the defendant, if return thereof be adjudged, and for the payment to him of such sum as may from any cause be recovered against the plaintiff, the chief sheriff or his deputy, sheriff or his deputy, shall forthwith take the property described in the affidavit, if it be in the possession of the defendant or his agent, and retain it in his custody.

He shall also, without delay, serve on the defendant a copy of the affidavit, notice, and undertaking, by delivering the same to him personally, if he can be found, or to his agent from whose possession the property is taken, or if neither can be found, by leaving them at the usual place of abode of either, with some person of suitable age and discretion, or if neither have any known place of abode, by putting them in the nearest post-office, postpaid, and addressed to the defendant.

§ 1698. The defendant may, within two days after the service upon him, or his agent, as above provided, of a copy of the affidavit and undertaking, or if he be served with such copy upon an island other

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than that upon which such action is commenced, within ten days after such service, give notice in writing to the chief sheriff, his deputy, sheriff or his deputy, at the seat of the court issuing the process therein, that he objects to the sufficiency of the sureties. If he fails to give such notice within the time specified, he shall be deemed to have waived all objection to them. When the defendant excepts, the sureties, or others in their place, shall justify as hereinafter provided; but where other sureties are substituted for the original there shall be a new undertaking.

§ 1699. The police officer approving the sureties as mentioned in section 1697, and their superiors, shall be responsible for the sufficiency of the sureties until the objection to them is either waived, as hereinbefore provided, or until they justify.

§ 1700. The plaintiff's sureties, in case their sufficiency shall be objected to, as provided in section 1698, shall, within two days after such exception made, justify before a judge or clerk of some court of record, or before a district magistrate, in the manner hereinafter provided. If they or others in their place fail to so justify, the chief sheriff or sheriff must redeliver the property to the defendant on demand.

§ 1701. The manner of justifying shall be by making oath to the following facts, by each surety:

1st. That he is resident within the Territory (stating his place of residence) and is either a freeholder or a householder therein.

2d. That he is worth the amount specified in his undertaking to the defendant, over and above all debts and liabilities, in property unencumbered, and not exempt from sale under execution. To this end they may be examined by the judge, clerk, or justice, or by the defendant or his attorney, if present, concerning their sufficiency. The examination shall, in all cases, be reduced to writing and subscribed by the surety, if required by the defendant. The officer holding such examination shall certify the same and attach it to the written undertaking of the sureties.

§ 1702. Where the objection to the sureties is waived, as provided in section 1698, or if, after such objection having been made, the sureties or their substitutes shall justify as provided in section 1701, the chief sheriff or other officer having charge of the property taken from the defendant shall immediately deliver the same to the plaintiff.

§ 1703. In all suits brought in district courts under this chapter, the chief sheriff, his deputy, sheriff or his deputy, shall deliver the property, when taken, direct to the plaintiff.

§ 1704. If the property taken be claimed by any other person than the defendant or his agent, and such person shall make affidavit of his title thereto, or of his right to the possession thereof, stating the grounds of such title or right, and serve the same on the chief sheriff, his deputy, sheriff or his deputy, such officer shall not be bound to keep the property or deliver it to the plaintiff, unless the plaintiff, on demand upon him or his agent, shall indemnify such officer against such claim by a sufficient undertaking executed by two sufficient sureties, accompanied by their affidavit (if such officer require), that they are each worth double the value of the property as set forth in the affidavit of the plaintiff, over and above mortgage debts and other liens upon their property, and that they are householders or freeholders resident within the Territory.

§ 1705. At any time before the delivery of the property to the plaintiff the defendant may, if he do not except to the sureties of the

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plaintiff, require the return thereof upon giving to the officer a written undertaking executed by two or more sufficient sureties, to the effect that they are bound in double the value of the property, as stated in the affidavit of the plaintiff, for the delivery thereof to the plaintiff, if such delivery be adjudged, and for the payment to him of such sum as may, for any cause, be recovered against the defendant.

If a return of the property be not so required within five days after the taking and service of notice to the defendant, it must be delivered to the plaintiff, except where the property is claimed by a third party, as is provided in section 1704.

§ 1706. The chief sheriff or other officer shall file all notices, undertakings, and affidavits, and his proceedings thereon, in the court in which the action is pending, on or before the return day of the writ issued therein.

NOTE TO CHAPTER 107.

§§ 1694–1706 are S. L. 1884, ch. 38.
Cases in Hawaiian Reports: Alau v. Everett, 7 Haw., 83; Peacock v. Collector, 8 Haw., 532; Ah Leong v. Kee You, 8 Haw., 416.

[*CHAPTER 108.*]

CHAPTER 109.

GARNISHEE PROCESS.

§ 1710. Whenever the goods or effects of a debtor are concealed in the hands of his attorney, agent, factor, or trustee, so that they can not be found to be attached or levied upon, or when debts are due from any person to a debtor, any creditor may bring his action against such debtor, and in his petition for process may request the court to insert therein a direction to the officer serving the same to leave a true and attested copy thereof with such attorney, agent, factor, or trustee, or at the place of his or their usual place of abode, and to summon such attorney, agent, factor, or trustee, to appear personally upon the day or term mentioned and appointed in said process for hearing the said cause, and then and there on oath to disclose whether he has, or at the time said copy was served had, any of the goods or effects of the defendant in his hands, and if so, the nature, amount, and value of the same, or is indebted to him, and the nature and amount of such debt; which summons and direction shall be signed and issued in the same manner as summonses are usually issued in civil actions, and shall be served by the officer according to such direction; and from the time of leaving such copy all the goods and effects in the hands of such attorney, agent, factor, or trustee, and every debt due from such debtor to the defendant, shall be secured in his hand to pay such judgment as the plaintiff shall recover, and may not be otherwise disposed of by such attorney, agent, factor, or trustee; and such notice shall be sufficient notice to the defendant to enable the plaintiff to bring his action to trial, unless the defendant be an inhabitant of this Territory, or has sometime resided therein, and then a like copy shall be served personally upon him, or left at his last and usual place of abode.

§ 1711. Such attorney, agent, factor, or trustee, upon his desire shall be admitted to defend his principal in such suit, and if judgment be rendered in favor of the plaintiff, all the goods and effects in the hands of such attorney, agent, factor, or trustee, and the debt

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due from such debtor, or such part thereof as may be sufficient for that purpose, shall be liable to pay the same; and the plaintiff on praying out execution may direct the officer serving the same to make demand of such attorney, agent, factor, or trustee of the goods and effects of the defendant in his hands, whose duty it will be to expose the same to be taken on the execution, and also to make demand of such debtor for any debt or such part thereof as may satisfy said judgment as may be due to the defendant, and it shall be the duty of the said debtor to pay the same; and if such attorney, agent, factor, or trustee shall have in any manner disposed of the goods and effects of his principal which were in his hands when the copy of the writ was left with him, and shall not expose and subject them to be taken on execution, or if such debtor shall not pay to the officer, when demanded, the debt due to the defendant at the time the copy of the writ was left with him, such attorney, agent, factor, trustee, or debtor shall be liable to satisfy such judgment out or his own estate, as his proper debt, if the goods or effects or debts be of sufficient value or amount; if not, then to the value of such goods or effects or to the amount of such debt.

§ 1712. If the said attorney, agent, factor, or trustee or debtor fail to appear upon the day and hour of hearing named in the summons or writ above mentioned, or if, having appeared, he refuse to disclose upon oath whether he has goods or effects of the defendant in his hands, and their nature and value, or whether a debt is due from him to the debtor, and its amount, the case shall proceed to trial; and if the plaintiff recover a judgment execution shall issue at his request against the estate of such contumacious attorney, agent, factor, trustee, or debtor, for the amount of such judgment as his own proper debt, and the lawful costs: Provided, That if it appear on the trial that the goods and effects are of less value and the debt of less amount than the judgment recovered against the debtor, judgment shall be rendered against garnishees to the value of the goods or the amount of the debt, and if it appears that the garnishee has no goods or effects of such debtor in his hands, or is not indebted to him, then he shall recover his lawful costs; but if he appear and on oath disclose fully whether he has in his hands the goods or effects of or is indebted to the defendant, and it appears to the court that he has no such goods or effects, or is not so indebted, then judgment shall be given for him, and he shall recover his lawful costs.

§ 1713. It shall be lawful for any creditor who has obtained a judgment in any court to apply to the court or a judge thereof for a rule, order, or summons that the judgment debtor shall be orally examined before a judge of such court, or such other person as such court or judge, if of a court of record, shall appoint, as to any and what debts are owing to him; and the court or judge may make such rule or order for the examination of such judgment debtor and for the production of any books or documents, and the examination shall be conducted in the same manner as in the case of oral examination of witnesses under the chapter in that case made and provided.

§ 1714. It shall be lawful for a judge of any court, upon the ex parte application of such judgment creditor either before or after such oral examination, and upon affidavit by the judgment creditor or his attorney stating that judgment has been recovered and that it is still unsatisfied, and to what amount, and that any other person is indebted to the judgment debtor, and is within the jurisdiction, to order that all debts owing or accruing from such third person (hereinafter called

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the "garnishee") to the judgment debtor, shall be attached to answer the judgment debt, and by the same or any subsequent order it may be ordered that the garnishee shall appear before the judge to show cause why he should not pay the judgment creditor the debt due from him to the judgment debtor or so much thereof as may be sufficient to satisfy the judgment debt: Provided, That the judge may, in his discretion, refuse to interfere when from the smallness of the amount to be recovered, or of the debt sought to be attached or otherwise, the remedy sought would be worthless or vexatious.

§ 1715. Service of an order that debts due or accruing to the judgment debtor shall be attached, or notice thereof to the garnishee in such manner as the judge shall direct, shall bind such debts in his hands.

§ 1716. If the garnishee does not forwith pay into court the amount due from him to the judgment debtor, or an amount equal to the judgment debt, and does not dispute the debt due or claimed to be due from him to the judgment debtor, or if he does not appear upon summons, then the judge may order execution to issue, and it may be sued forth accordingly without any previous writ or process to levy the amount due from such garnishee towards satisfaction of the judgment debt.

§ 1717. If the garnishee disputes his liability, the judge, instead of making an order that execution shall issue, may order that the judgment creditor shall be at liberty to proceed against the garnishee by writ calling upon him to show cause why there should not be execution against him for the alleged debt or for the amount due to the judgment debtor, if less than the judgment debt and for cost of suit, and the proceedings upon such suit shall be the same as nearly as may be as upon a writ of revivor. Whenever it is suggested by the garnishee that the debt sought to be attached belong to some third person who has a lien or charge upon it, the judge may order such third person to appear before him and state the nature and particulars of his claim upon such debt, and after hearing the allegations of such third person under such order, and of any other person whom by the same or any subsequent order the judge may think fit to call before him, or in case of such third person not appearing before him upon such summons, the judge may order execution to issue to levy the amount due from such garnishee, or the judgment creditor to proceed against the garnishee as herein provided, and he may bar the claim of such third person or make such other order as he shall think fit, upon such terms in all cases with respect to the lien or charge (if any) of such third person and to costs, as he shall think just and reasonable.

§ 1718. The taking of any goods or effects of any debtor, or the payment of any debt due him as aforesaid, or payment made by, or execution levied upon the garnishee upon any such proceeding as aforesaid, shall be a valid discharge to him as against the judgment debtor to the amount paid or levied, although such proceeding may be set aside or the judgment may be reversed.

§ 1719. Every such attorney, agent, factor, or trustee shall be paid his traveling fees and expenses for his attendance before any court under the provisions of this chapter, on the same scale and at the same rate as witnesses required by subpœna to attend on the trial of any civil suit in said courts.

§ 1720. Whensoever any person summoned as an attorney, agent, factor, or debtor of any defendant may be desirous of so doing, he may apply to the magistrate or any justice of the court from whom or which

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the said summons may have issued, and the magistrate or justice, having caused reasonable notice to be given to the plaintiff in the action, shall proceed to take the deposition of the person thus summoned, and make such order as may be proper in the premises, at any time previous to the day appointed for hearing the cause, and the person so summoned as agent, factor, trustee, or debtor of the party defendant shall be taken to have obeyed the summons.

§ 1721. If upon disclosure made on oath by such debtor it appears that such garnishee is indebted to the defendant, but that such debt is not payable and become due until some future time, then such judgment as the plaintiff may recover shall constitute a lien upon such debt until at the time it shall fall due and payable.

§ 1722. The provisions of this chapter and the powers conferred therein shall extend to all the common-law courts of this Territory, according to their jurisdiction, as at present or in future organized.

§ 1723. The foregoing section 1720 shall be printed or written conspicuously on every summons issuing out of any court of this Territory which may be intended to be served on any alleged attorney, factor, trustee, or debtor of a defendant in any suit.

NOTE TO CHAPTER 109.

§§ 1710–1723 are S. L. 1876, ch. 35, C. L., p. 279.
Cases in Hawaiian Reports: Frag v. Adams, 5 Haw., 665; Lee Ah Sue v. Chu Kee, 6 Haw., 624; Hackfeld v. Kavanagh, 6 Haw., 660; Byrne v. Allen, 10 Haw., 327; Lai Say v. Kaaahu, 10 Haw., 499.

CHAPTER 110.

GARNISHEE OF GOVERNMENT BENEFICIARIES.

§ 1724. Any officer or employee or other person in the service of the government of Hawaii, or in receipt of or entitled to a salary, stipend, wages, annuity, or pension from the said government, or any department, board, or bureau thereof, shall, for the purposes of this chapter, and of any proceedings hereunder, be known and described as a government beneficiary, hereinafter denominated such beneficiary.

§ 1725. The salary, stipend, wages, annuity, or pension of such beneficiary may be attached for, and applied in the payment of, his debts in the manner prescribed in this chapter.

§ 1726. The creditor of such beneficiary may bring his suit against his debtor and in his petition or declaration allege, to the best of his knowledge, (1) the office or employment held or pursued by such beneficiary, in or under what department, board, or bureau of government, where he is resident, and where chiefly so employed; (2) the amount of the monthly salary, wages, or stipend, or the annual salary or pension or annuity of such beneficiary; (3) the name and location of the officer of government through whom such beneficiary is accustomed or entitled to draw his salary, stipend, wages, annuity, or pension.

§ 1727. In his prayer for process such creditor may include a request to the court or magistrate issuing the same to insert therein a direction to the officer serving the same to leave a true copy thereof (which shall be attested by the chief sheriff, his deputy, some sheriff, deputy sheriff, or captain of police) with the officer in whose hands the salary, stipend, wages, annuity, or pension of such debtor are sought to be attached, as provided in section 1731, such officer being hereinafter named the garnishee.

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§ 1728. Service of such copy upon such garnishee may be made in any of the manners here described, namely: If he live or have an office in the district in which such process is issued, by the officer handing such copy to him in person or by leaving it in his office in charge of some deputy or clerk or other employee or attachee of such office; if he live in a district other than that in which such process was issued, by handing such copy to him in person or by depositing it in the nearest post-office in a sealed envelope, post paid, and addressed to such officer at his accustomed post-office.

§ 1729. In case of service upon such garnishee, if served by an officer, his certificate of such service, specifying the particulars thereof, shall be *prima facie* proof of such service, and shall be ample for the purposes of section 1731, from the time when such copy shall be handed to or be left in the office of such garnishee, or shall reach him or his office by mail.

§ 1730. Service of process upon such beneficiary may be made as has been usual or shall be provided in case of civil suits in general.

§ 1731. It shall not be incumbent upon such garnishee to appear in any court or file any answer to such process, but the trial of such suit may proceed in all respects as though such garnishee had not been included in the suit. But from the time of the service of such copy upon such garnishee it shall be unlawful for him to pay or cause or permit to be paid to such beneficiary as shall be named in such copy more than seventy-five per cent of the salary, stipend, wages, annuity, or pension which shall then be or shall thereafter become due, owing, or payable to such beneficiary until the suit against him shall have been withdrawn or dismissed or the judgment obtained against him therein, if any, shall have been fully paid, with legal interest theron, either of which events, as the case may be, shall be certified by the court in or before which suit or proceeding has been pending. The amount or amounts withheld from such beneficiary in pursuance hereof shall be deemed sequestered in the hands of the government from the time of such service on such garnishee: Provided, That no more shall be thus sequestered in advance of final judgment than shall be sufficient to meet the demand of the plaintiff or plaintiffs in such suit or suits.

§ 1732. The obligations and inhibitions hereby imposed upon such garnishee shall be equally binding upon his official superiors and successors to whose notice the fact shall come of such service upon such garnishee.

§ 1733. After trial or hearing of such suit, either in the original or any appellate court, the party prevailing in such trial or hearing shall obtain from the court in or before which the trial or hearing was had a certificate which shall sufficiently describe the action to apprise the garnishee of its identity, and shall state the nature of the judgment, if any, rendered therein, whether any appeal from or exceptions to such judgment were noted at the time of rendering such judgment, or whether the suit had been voluntarily withdrawn or discontinued, and such certificate shall be immediately furnished to the garnishee.

§ 1734. In case of the withdrawal or discontinuance of such suit, or of the rendition of judgment therein wholly favorable to such beneficiary, from or to which judgment no appeal or exceptions shall have been noted at the time when it was rendered, and the certification thereof to such garnishee, the inhibitions placed upon such garnishee by the service of such copy shall be void and of no further effect. But in case of judgment being rendered for either party in such suit from or to which an appeal or exceptions shall have been noted at the time, the garnishee shall continue bound by such service until the

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result of such appeal or exceptions shall have been duly certified to him as hereinbefore provided.

§ 1735. In case there shall be certified to such garnishee a judgment for the plaintiff from or to which no appeal or exceptions shall, at the time of its rendition, have been noted, it shall be incumbent upon such garnishee and his official superiors to pay or cause to be paid to such plaintiff such sum or sums as shall theretofore have been sequestered in pursuance of such suit, if such judgment shall equal or exceed such sum or sums. If the amount as sequestered shall not suffice to extinguish such judgment, then such sequestration and payment to such plaintiff by such garnishee and his official superiors shall continue from week to week, or from month to month, until such judgment, with legal interest thereon, shall be fully paid, or until such beneficiary shall quit the service and dissolve his relation to the government upon which such sequestration is founded.

§ 1736. For the purposes of this chapter it shall be sufficient to serve such copy of process as aforesaid upon the officers hereinafter respectively named, that is to say:

1. In suits against any judge or justice of a court of record, any person drawing or entitled to a pension or annuity, or to a salary provided for in the civil list, the auditor or any other officer, pensioner, or person usually drawing or entitled to draw for his salary, stipend, wages, annuity, or pension, upon the treasurer direct, without obtaining a draft therefor—the treasurer.

2. In suits against any officer or employee of the judiciary department, except those above named, and district magistrates—the chief justice, or in his absence the senior of the justices of the supreme court who shall be present and accessible in his office.

3. In suits against police or district justices—the circuit judge of the circuit in which such justices reside, except that in case of such suits against police or district justices on the island of Oahu, such service shall be made on a justice of the supreme court, as provided in paragraph 2 of this section.

4. In suits against any officer, teacher, or employee of the department of public instruction, except teachers on the islands other than the island of Oahu—the superintendent of public instruction.

5. In suits against any teacher employed by the department of public instruction on an island other than Oahu—the school agent for the district where such teacher is employed.

[6.]

[7.]

8. In suits against any officer or employee of any such board or bureau as mentioned in paragraph 6 hereof, except as therein provided—the chief or executive officer thereof; as, for instance, in the case of an officer or employee of the bureau of public works, such service shall be made upon the superintendent of public works; and in the case of an officer or employee of the board of health, such service shall be made upon the president of said board.

9. In suits against any officer or employee of the treasury department (except as provided in paragraphs 11, 12, 13, and 14 hereof), and including the assessors and collectors of taxes for the respective divisions—the treasurer.

[10.]

11. In suits against any deputy assessor and collector of taxes, or other official subordinate of any assessor and collector of taxes—the assessor and collector of taxes for the division in which such deputy or other subordinate shall be employed.

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[12.]
[13.]
[14.]

15. In suits against any officer, noncommissioned officer, private, or member of the Hawaiian band, or of any military or naval force—the officer who shall be by law charged with the disbursement of the salaries or pay of such band or force, as the case may be.

16. In suits against any officer in the department of the attorney-general, for whom a specific salary is appropriated by the legislature—the attorney-general.

17. In suits against any police officer or other subordinate of the chief sheriff on the island of Oahu, except as provided in paragraph 16 of this section—the chief sheriff of the Territory.

18. In suits against any police officer or other subordinate of the sheriff of any island or group of islands other than Oahu, except as provided in paragraph 16 of this section—the sheriff or deputy sheriff of the island or group of islands where such officer or subordinate shall be employed.

19. In suits against any official subordinate or employee of any road board or road supervisor—the chairman of such road board or such road supervisor, as the case may be.

§ 1737. In case of successive suits being brought against any such beneficiary, in which any portion of his salary, stipend, wages, annuity, or pension shall be sought to be sequestered, as provided herein, precedence shall be given by the garnishee to him whose process is first served upon such garnishee; and if two or more such processes be simultaneously served upon him they shall be entitled to precedence in the order of the priority of their issue by the court or courts from which they respectively emanated, subject to the provisions of the following section.

§ 1738. The order of precedence established by the last preceding section shall not be disturbed by the fact of a posterior suit being carried to final judgment earlier than its anterior in point of such service upon the garnishee, but in such case the garnishee shall pay or cause to be paid on account of such earlier judgment only such sums as shall be payable upon such judgment from the amounts which shall thereafter become due and payable to such beneficiary. All amounts sequestered on account of such anterior suit shall be held to await the result thereof, when, if final judgment shall pass against such beneficiary, the amount so sequestered and held shall be applied in payment of such judgment. In case such amounts shall not suffice to satisfy such judgment, then all judgments obtained in posterior suits shall be again postponed to that in the anterior suit, until it is satisfied.

§ 1739. All payments made on account of any such judgment, as hereinbefore provided, shall be noted and charged against such beneficiary in like manner as if they had been paid to him personally on account of such salary, stipend, wages, annuity, or pension.

§ 1740. There shall be printed upon the face of the process issued in any suit brought under the provisions of this chapter a literal copy of section 1731, together with the date of the approval thereof.

NOTE TO CHAPTER 110.

§§ 1724–1740 are S. L. 1890, ch. 50.
Cases in Hawaiian Reports: Morse v. Robertson, 9 Haw., 195; Sun Hop Sing v. Wright, 10 Haw., 260.

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CHAPTER 111.

LIENS.

PART I.—MECHANICS AND MATERIAL MEN.

§ 1741. Any person or association of persons furnishing labor or material to be used in the construction or repair of any building, structure, railroad, or other undertaking shall have a lien for the price agreed to be paid for such labor or material (if it shall not exceed the value thereof) upon such building, structure, railroad, or other undertaking, as well as upon the interest of the owner of such building, structure, railroad, or other undertaking in the land upon which the same is situated.

§ 1742. The lien provided in the first section hereof shall not attach unless a notice thereof shall be filed in writing in the office of the clerk of the circuit court, as the case may be, where the property is situated, and a copy of the notice be served upon the owner of the property. Such notice shall set forth the amount of the claim, the labor or material furnished, a description of the property sufficient to identify the same, and any other matter necessary to a clear understanding of the same. The lien shall continue for three months, and no longer, after the completion of the construction or repair of the building, structure, railroad, or other undertaking against which it shall have been filed, unless the same shall have been satisfied, or proceedings commenced to collect the amount due thereon by enforcing the same.

§ 1743. The clerks of the circuit courts shall keep in each office a book called "Mechanics' Lien Record," in which shall be entered a memorandum of each lien filed. The record shall be arranged alphabetically in the name of the owner of the property, and shall state in addition to such name the amount of the lien or claim, by whom filed, the date of filing, a brief description or identification of the property against which it is filed, the date of proceeding to enforce, the date of discharge, and any other matter deemed necessary.

§ 1744. The lien herein provided shall have force only from the date of filing. It shall have priority in the order of filing over other liens of any nature, and shall be subject to any prior recorded lien or judgment. Whenever the lien hereby provided shall be satisfied (other than by the limitations expressed in section 1742), a written notice thereof shall be filed with the clerk of the circuit court, as the case may be, which shall be noted in the mechanics' lien record.

§ 1745. The liens hereby provided may, after demand and refusal of the amount due, or upon neglect to pay the same upon demand, be enforced by proceedings in any court of competent jurisdiction, by service of summons, as now practiced. Such summons shall set forth the ordinary allegations in assumpsit, and, in addition thereto, note that a lien has been filed. Before proceeding to trial the defendant shall be served with a detailed specification of the claim, provided that no such specification shall have been furnished before proceedings were commenced. Judgment upon such proceedings shall be as in ordinary cases, and may be enforced by execution as now allowed. In case the contract for services or material upon which the lien has accrued shall have been directly with the owner of the property, an attachment may issue in connection with the suit upon the filing of a bond of indemnity to the said owner in such sum as the magistrate or

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court may fix. If it shall appear that such bond is insufficient, the magistrate or court shall cause a new bond to be filed for a greater amount, or with additional security.

§ 1746. Whenever the work or material for which a lien is filed shall be furnished to any contractor for use as set forth in section 1741, the owner may retain from the amount payable to the contractor sufficient to cover the amount due or to become due to the person or persons who filed the lien.

PART II.—HIGHWAYS IMPROVEMENTS.

§ 1747. Whenever a lien shall attach to any real property, or any interest therein, or other benefits or betterments or for any part of the expense of any opening, closing, or improvement of any public highway in the Territory of Hawaii, and the amount of such lien shall not be paid in ninety days after such lien attaches, the superintendent of public works may enforce such lien in the following manner:

1. By a suit in equity in the nature of suits for the foreclosure of mortgage liens.
2. Or by advertisement and sale of premises, rights, or property upon which the lien attaches.
3. Or by such other action or suit at law or in equity as may be by law or equity provided for such cases.

§ 1748. Whenever a lien shall be enforced by advertisement and sale, the superintendent of public works or chief clerk of the department of public works shall advertise and publish in one or more newspapers published in the Territory, once each week for four consecutive weeks, in the English and Hawaiian languages, a notice of sale of the premises upon which such lien attached. All notices and sales may be given and had in Honolulu. Such notice shall be signed by the superintendent or chief clerk, and set forth substantially—

1. The date of lien, and for what incurred.
2. Amount of lien and interest.
3. The location of premises and description of the premises sufficient to identify them.
4. The name of owner or party interested in the premises, or rights, or property, upon which lien attached, when same attached, if known; otherwise to be indicated as unknown.
5. The time and place of sale.
6. A notice to the owners or parties in interest to redeem.
7. Such other matters as may be deemed advisable to attract attention, and cause a fair notice and a fair sale.

§ 1749. The sale shall be at public auction, and the premises, rights therein, or property shall be sold to the highest bidder for cash.

From the proceeds of sale there shall be deducted and paid the amount due on the lien, together with interest, costs, charges, and expenses of recording the lien and enforcing the same, including the certificate of sale, and a deed or deeds to purchaser.

Any surplus of purchase price shall be paid to the owner or party thereto entitled, if known, otherwise to be deposited in the public Treasury to the order of the party entitled to same.

§ 1750. On the receipt of the purchase money at any such sale, the superintendent of public works shall execute and deliver a deed to the purchaser. Such deed shall contain a recitation of the material facts connected with the lien, and the enforcing thereof, and a copy of notice of sale, and in all matters connected therewith such deed

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shall be evidence of the material facts therein stated, and the regularity of all proceedings, and on delivery shall pass the title in the premises or property or rights sold to the purchaser.

§ 1751. No sale or transfer of the property, premises, or rights therein, upon which a lien attached, by the party owning or interested therein, shall impair the lien or the enforcement of the lien or sale thereunder.

§ 1752. Within thirty days after the sale the superintendent of public works, or the chief clerk, shall file a sworn certificate setting forth the facts connected with the enforcing of the lien and the sale, in the office of the registrar of conveyances in Honolulu, for record, which certificate shall be recorded and indexed in the names of the owners of land, property, or rights sold (if known, otherwise indicated as unknown), and of the purchaser thereof; and shall also be indexed under letter H, a title "Highway lien," with location of highway and book and page where certificate is recorded.

§ 1753. At any time within six months after the recording of the certificate of sale the person or persons owning or interested in the land, property, or rights on which the lien attached and the sale made may redeem the same by paying to the purchaser the purchase price, the expense of deed and recording, together with interest on such purchase price, cost, and expense, at the rate of ten per cent per month from the date of sale. And upon the tender of the amount to redeem, the purchaser shall execute a proper quitclaim or release deed, at the expense, however, of one making the tender.

§ 1754. When any lien is released or paid, or a sale shall take place enforcing such lien, the registrar of conveyances shall note on the margin of the book of record, opposite the particular lien, the liber and page where the release or certificate of sale has been recorded, and when payment is made to the superintendent of public works he shall cause note of payment likewise to be entered on the margin of book of record in the same manner.

[PART III.—DOMESTIC SHIPS AND VESSELS.]

[§§ 1755–1758.]

PART IV.—CARE OF ANIMALS.

§ 1759. Whoever pastures, feeds, or shelters animals by virtue of a contract with or by the consent of the owner of such animals, for a compensation agreed upon, has a lien on such animals for such pasturing, feeding, or sheltering to secure payment thereof, with costs.

§ 1760. If the owner of such animal or animals, after demand and notice, in writing, that such lien will be enforced served upon him, shall fail to pay the amount due for such pasturing, feeding, or sheltering within thirty days, the holder of the lien may cause such animal or animals to be sold at public auction, upon notice of such sale being given for fifteen days by publication in an English or Hawaiian newspaper, or by posting such notice in the Hawaiian and English languages at the court-house of the district where no newspaper is published.

§ 1761. Any excess over the amount due, and costs of sale and advertising, realized from such sale, shall be paid to the owner of the animals sold.

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NOTE TO CHAPTER 111.

§§ 1741–1746 are S. L. 1888, ch. 21. §§ 1747–1754 are S. L. 1890, ch. 42. §§ 1755–1758 are S. L. 1870, ch. 6, C. L., p. 535. §§ 1759–1761 are S. L. 1892, ch. 9.

Procedure to enforce liens on vessels. See §§ 1509–1514.

Cases in Hawaiian Reports: *Part I.* Lucas v. Redward, 9 Haw., 23; Allen & Robinson v. Redward, 10 Haw., 151; Allen & Robinson v. Redward, 10 Haw., 273.

CHAPTER 112.

INTERPLEADER.

§ 1762. Upon application made by or on behalf of any defendant sued in any court of record in any personal action, such application being made after declaration and before plea by affidavit or otherwise, showing that such defendant does not claim any interest in the subject-matter of the suit, but that the right thereto is claimed or supposed to belong to some third party who has sued or is expected to sue for the same, and that such defendant does not in any manner collude with such third party, but is ready to bring into court or to pay or dispose of the subject-matter of the action in such manner as the court (or any judge thereof) may order or direct, it shall be lawful for the said court, or any judge thereof, to make rules and orders calling upon such third party to appear and to state the nature and particulars of his claim, and maintain or relinquish his claim, and upon such rule or order to hear the allegations as well of such third party as of the plaintiff, and in the meantime to stay the proceedings in such action, and finally to order such third party to make himself defendant in the same or some other action, or to proceed to trial on one or more feigned issue or issues; and also to direct which of the parties shall be plaintiff or defendant on such trial, or with the consent of the plaintiff and such third party, their counsel or attorneys, to dispose of the merits of their claims and determine the same in a summary manner, and to make such other rules and orders therein as to costs and all other matters as may appear to be just and reasonable.

§ 1763. The judgment in any such action or issue as may be directed by the court or judge, and the decision of the court or judge, in a summary manner, shall be final and conclusive against the parties and all persons claiming by, from, or under them.

§ 1764. If such third party shall not appear upon such rule or order to maintain or relinquish his claim, being duly served therewith, or shall neglect or refuse to comply with any rule or order to be made after appearance, it shall be lawful for the court or judge to declare such third party and all persons claiming by, from, or under him to be forever barred from prosecuting his claim against the original defendant, his executors, or administrators; saving, nevertheless, the right or claim of such third party against the plaintiff, and thereupon to make such order between such defendant and the plaintiff as to costs and other matters as may appear just and reasonable.

§ 1765. If upon application to a judge in the first instance, or in any later stage of the proceedings, he shall think the matter more fit for the decision of the court, it shall be lawful for him to refer the matter to the court, and thereupon the court shall and may hear and dispose of the same in the same manner as if the proceeding had originally commenced by rule of court instead of the order of a judge.

§ 1766. And whereas difficulties sometimes arise in the execution of process against goods and chattels issued by or under the author-

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ity of the courts in this Territory by reason of claims made to such goods and chattels by assignees of bankrupts and other persons, not being the parties against whom such process had issued, whereby the chief sheriff, sheriffs, and other officers are exposed to the hazard and expense of actions, and protection in such cases to such chief sheriff, sheriffs, and other officers: Be it therefore further enacted, That when any such claim shall be made to any goods or chattels taken or intended to be taken in execution under any such process, or to the proceeds or value thereof, it shall and may be lawful to and for the court out of which the execution shall have been issued, or any judge thereof, upon application of such chief sheriff, sheriff, or other officer made before or after the return of such process, and as well before as after any action brought against such chief sheriff, sheriff, or other officer, to call before them or him by rule, order, or summons, as well the party issuing such process as the party making such claim; and thereupon to exercise for the adjustment of such claims as the relief and protection of the chief sheriff, sheriff, or other officer, all or any of the powers and authorities hereinbefore contained, and make such rules, orders, and decisions as shall appear to be just, according to the circumstances of the case; and the cost of all such proceedings shall be in the discretion of the court or judge.

§ 1767. Where an action has been commenced in respect of a common-law claim for the recovery of money or goods, or where goods or chattels have been taken or are intended to be taken in execution under process issued from any court, and the defendant in such action or the chief sheriff, sheriff, or other officer has applied for relief under this chapter, it shall be lawful for the court or judge to whom such application is made to exercise all the powers and authorities given to them by this chapter, though the titles of the claimants to the money, goods, or chattels in question or to the proceeds or value thereof have not a common origin, but are adverse to and independent of one another.

§ 1768. When goods or chattels have been seized in execution by the chief sheriff or other officer under process of any court, and some third person claims to be entitled under a bill of sale, chattel mortgage, or otherwise to such goods and chattels by way of security fo a debt the court or a judge may order a sale of the whole or part thereof, upon such terms as the payment of the whole or part of the secured debt or otherwise as they or he shall think fit, and may direct the application of the proceeds of sale in such manner and upon such terms as to such court or judge may seem just.

§ 1769. Upon the hearing of any rule or order from a court of record calling upon persons to appear and state the nature and particulars of their claims it shall be lawful for the court or judge wherever from the smallness of the amount in dispute or of the value of the goods seized, it shall appear to them or him desirable and right so to do, at the request of either party to dispose of the merits of the respective claims of such parties, and to determine the same in a summary manner upon such terms as they or he shall think fit to impose, and to make such other rules and orders therein as to costs and all other matters as may be just.

§ 1770. In all cases of interpleader proceedings where the question is one of law and the facts are not in dispute the judge shall be at liberty, at his discretion, to decide the question without directing an action or issue, and (if he shall think it desirable) to order that a special case be stated for the opinion of the supreme court, and the

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proceedings upon such case shall (as nearly as may be) be the same as upon a submission to the court under the laws now in force.

§ 1771. The judgment in any such action or issue as may be directed by the court or judge in any interpleader proceedings and the decision of the court or any judge in a summary manner shall be final and conclusive against the parties and all persons claiming by, from, or under them.

§ 1772. All rules, orders, matters, and decisions to be made and done in interpleader proceedings under this chapter (excepting only affidavits) may, together with the declaration or summons in the cause (if any), be entered of record in the supreme court, with a note in the margin expressing the true date of such entry, to the end that the same may be evidence in future times if required, and to secure and enforce the payment of costs directed by any such rule or order, and every such rule or order so entered shall have the force and effect of a judgment in the supreme court.

NOTE TO CHAPTER 112.

§§ 1762–1772 are S. L. 1876, ch. 33, C. L., p. 381.
Cases in Hawaiian Reports: Re Akana, 6 Haw., 254.

CHAPTER 113.

QUIETING TITLES.

§ 1773. Action may be brought in the supreme court or in any of the circuit courts by any person, against another person, who claims adversely to the plaintiff an estate or interest in real property, for the purpose of determining such adverse claim.

§ 1774. Any person may be made a defendant in such action who has or claims an interest in the property adverse to the plaintiff, or who is a necessary party to a complete determination or settlement of the question involved therein.

§ 1775. If at the time of the commencement of such action the property in question is in the possession of a tenant, the landlord may be joined as a party defendant.

§ 1776. If in such action the defendant disclaim in his answer any interest or estate in the property or suffer judgment to be taken against him without answer, the plaintiff shall not recover costs.

NOTE TO CHAPTER 113.

§§ 1773–1776 are S. L. 1890, ch. 18.
Cases in Hawaiian Reports: Kahoiwai v. Limaeu, 10 Haw., 507.

CHAPTER 114.

ACQUISITION OF RIGHTS OF WAY.

§ 1777. Whenever any person shall be desirous of acquiring a private right of way across the land of another person or persons for a railway, drain, flume, water pipe or ditch for agricultural, milling, manufacturing, mining, domestic, or sanitary purposes, and is unable to agree with the person or persons across whose land or lands it is desired to acquire such right of way, petition may be made to any circuit judge of the judicial district within which such land is situated, setting forth the name or names of the owner or owners of the land or

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lands across which it is desired to acquire such right of way, and all the facts and diagrams necessary for the understanding of the case.

§ 1778. After service of such petition as now required by law for hearings at chambers, the judge to whom the petition is addressed shall proceed to take testimony in regard to the propriety and utility of granting such right of way, and the amount of damages, both direct and consequential, which may be suffered by the owner or owners of the proposed servient lands. If such judge shall find that the acquisition of such right of way is reasonable, proper, and useful, he shall enter judgment authorizing the construction of the same and awarding damages; but no right of way as provided by such judgment shall be acquired unless the amount awarded and costs shall be paid by the petitioner within thirty days from the rendition of the judgment. Such payment may be made to the party in whose favor the award is given, or to the court.

§ 1779. Such judgment, if in favor of the petitioner, shall set forth the route of the proposed railway, drain, flume, water pipe or ditch, and what fences, bridges, and crossing places, if any, shall be maintained by the petitioner. After the construction of such railway, drain, flume, water pipe or ditch it shall be incumbent on the owner of such railway, drain, flume, water pipe or ditch, his heirs and assigns, to keep such railway, drain, flume, water pipe or ditch, fences, bridges and crossing places in proper repair, and for that purpose shall have the right of entry at all reasonable times; and such owner of such railway, drain, flume, water pipe or ditch, his heirs or assigns, shall be answerable at all times to the owner of the land, his representatives or assigns, for any damages which may occur or result by reason of any overflow of water, or other damage caused by the failure to keep such railway, drain, flume, water pipe or ditch, as the case may be, in proper repair, or failure to keep the fences and bridges and crossing places in proper repair. If the judge before whom any such case may be heard shall find that the proposed right of way is unreasonable or inexpedient, he shall enter judgment for the respondent.

§ 1780. If either party shall be dissatisfied with the decision of any judge before whom any cause arising under this chapter shall be brought, he may appeal to the supreme court, and his appeal shall be heard upon the record; but either party may adduce before such court further testimony. If the respondent shall appeal and shall not succeed in reversing the judgment below or increasing the damages by one-fifth, he shall pay the costs of the appeal, but in all other cases the cost of said appeal shall be borne by the petitioner.

§ 1781. The word "person," as used in this chapter, shall be held to mean not only individuals, but any and all associations or corporations, the commissioner of public lands, and shall also include owner as well as occupier.

NOTE TO CHAPTER 114.

§§ 1777–1781 are S. L., 1895, act 18.

CHAPTER 115.

SALE OF MORTGAGED PROPERTY.

§ 1782. When a power of sale is contained in a mortgage the mortgagee, or any person having his estate therein or authorized by such power to act in the premises, may, upon a breach of the condition,

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give notice of his intention to foreclose such mortgage, by publication of such notice in the Hawaiian and English languages for a period of three consecutive weeks before advertising the mortgaged property for sale; and also give such notices and do all such acts as are authorized or required by the power contained in the mortgage; and he shall, within thirty days after selling the property in pursuance of the power, file a copy of the notice of sale and his affidavit setting forth his acts in the premises fully and particularly in the office of the registrar of conveyances in Honolulu. The affidavit and copy of the notice shall be recorded by the registrar, with a notice of reference thereto, in the margin of the record of the mortgage deed, if recorded in his office.

WHEREAS doubts have arisen as to the true intent and meaning of section 1782; and whereas the true intent and object of said section and of any law to provide for foreclosure of mortgages without suit ought to be to reduce expenses and outlay to the mortgagor, while giving the widest publicity to the sale of the mortgaged premises, in order to obtain the greatest possible price: Therefore,

Be it enacted, etc.

§ 1783. That the true intent and meaning of section 1782 has been and now is: That the notice of intention of foreclosure might also contain a description of the mortgaged property and a statement of the time and place proposed for the sale thereof at any time after the expiration of three weeks from the date when first advertised; and also that the affidavit contemplated by said section might lawfully be made by any person duly authorized to act for the said mortgagee, and in such capacity conducting the foreclosure.

§ 1784. If it appears by such affidavit that he has in all respects complied with the requisitions of the power of sale in relation to all things to be done by him before selling the property, and has sold the same in the manner required by such power, the affidavit, or a duly certified office copy of the record thereof, shall be admitted as evidence that the power of sale was duly executed.

§ 1785. If the mortgage was executed by a man having at the time no lawful wife, or if, being married, the wife of the mortgagor joined in the deed in token of her release of dower, the sale of the property in the mode aforesaid shall be effectual to bar all claim and possibility of dower in the property.

§ 1786. No sale or transfer by the mortgagor shall impair or annul any right or power of attorney given in the mortgage to the mortgagee to sell or transfer the mortgaged property as attorney or agent of the mortgagor. And when public sale shall be made of the mortgaged property under this chapter the remainder, if any there be, shall be paid over to the owner of the mortgaged property, after deducting the amount of claim and all expenses attending the same.

§ 1787. After breach of the condition, if the mortgagee, or anyone claiming under him, is desirous of obtaining possession of the premises for the purpose of foreclosure, he may proceed in either of the following ways, viz:

First. He may enter into possession and hold the same by consent in writing of the mortgagor or the person holding under him.

Second. He may enter peaceably and openly, if not opposed, in the presence of two witnesses and take possession of the premises, in which case a certificate of the fact and time of such entry shall be made and signed and sworn to by such witnesses before any judge of a court, and such written consent and such certificate shall be recorded

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in the registry of conveyances, and no such entry shall be effectual unless such certificate or consent in writing shall be recorded within thirty days next after such entry is made.

§ 1788. The mortgagee in possession is authorized to make such expenditure as is necessary to carry on the estate or to keep the same in good condition, giving credit for the income, and the balance shall be placed in the account for or against the estate, as the case may be, if the mortgagor makes a tender for redemption.

§ 1789. Such possession obtained in either of the two modes above described being continued for the term of one year shall forever foreclose the right of redemption.

NOTE TO CHAPTER 115.

§1782 is S. L. 1874, ch. 33, §1 C. L., p. 563. §1783 is S. L. 1890, ch. 9. §§1784–1786 are S. L. 1874, ch. 33, §§ 2–4. §§1787–1789 are S. L. 1874, ch. 48, C. L., p. 569. Cases in Hawaiian Reports: Watson v. Akanaliilii, 6 Haw., 572; Wailuku v. Dean, 8 Haw., 108.

CHAPTER 116.

BANKRUPTCY.

§ 1790. Every person owing debts to the amount of five hundred dollars who shall refuse or fail to make payment of any of his just demands for ten days after the same shall mature, or who shall depart the Territory with the intent to hinder, delay, or defraud his creditors, or who shall secrete himself, or keep his house, to hinder, delay, defraud, or avoid his creditors, or to hinder or delay the service of legal process for the collection of any debts, or who shall make any fraudulent or secret conveyance of his property to any person or persons, or make any secret removal or other disposition of his property for the purpose of hindering, delaying, or defrauding his creditors, may, upon the petition to any circuit judge by any creditor or creditors, the total of whose claim or claims shall amount to two hundred and fifty dollars, be declared bankrupt.

§ 1791. Any person owing debts to the amount of five hundred dollars, which have not been created in consequence of defalcation as a public officer, or executor, administrator, guardian, or trustee, or while acting in any other fiduciary capacity, may file his petition, verified by oath, before any circuit judge and ask to be adjudged a bankrupt, which petition shall be heard and acted upon forthwith.

§ 1792. Any petition to declare a person bankrupt shall be verified by oath, and state the act or acts of bankruptcy relied upon. Such petition shall be accompanied by a bond, the penalty thereof to be fixed in such a sum as the judge may think proper, which bond shall be conditioned for the payment of all costs of proceedings and damages accruing to the party petitioned against in case of failure to prove him bankrupt.

§ 1793. Upon receiving such petition and bond, as mentioned in section 1792, or when any person shall be declared bankrupt upon his own petition, as provided in section 1791, the judge shall issue an order to the chief sheriff of the Territory or his deputy, or to the sheriff of an island, as the case may be, to take possession of the debtor's store and counting-house, goods, chattels, property, books, and papers, and hold the same until the election or appointment of an assignee or assignees: Provided, however, That in all proceedings where any of the property

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and effects of the debtor ought, in the discretion of the judge, to be sold and that such sale would be for the benefit of the bankrupt's creditors, that the said chief sheriff or his deputy, or the sheriff, as the case may be, shall, upon the order of the judge, sell the same and hold the proceeds of such sale until the election or appointment of an assignee or assignees.

§ 1794. After the filing of the petition and bond, as provided in section 1792, the judge shall fix a time for hearing the alleged bankruptcy, and notice of such hearing shall be made by serving a copy of the petition upon the party petitioned against, or by leaving a copy of such petition with some agent or person transacting the business of the alleged bankrupt, or at the last known place of residence of the alleged bankrupt, or in such other manner as the judge shall direct.

§ 1795. Whenever any person shall be declared a bankrupt, either upon his own petition or that of his creditor or creditors, he shall immediately file with the clerk of the court a schedule of all his creditors, with the amounts due such creditors, respectively, which such schedule shall contain all secured and unsecured accounts, and if secured, the nature of such security; he shall also file an inventory of all assets, including such as may be exempt by law, which schedule and inventory shall be made under oath.

ASSIGNEE AND PROOF OF CLAIMS.

§ 1796. Upon the adjudication by the circuit judge of any person as a bankrupt the circuit judge shall order a notice to be published in some newspaper, notifying the creditors of such bankrupt to come in and prove and file their claims upon a day to be named in such notice, and shall also cause the chief sheriff, his deputy, or sheriff, as the case may be, or either of them, to serve notices by mail upon the creditors of such bankrupt of such meeting, and all creditors who have so proved and filed their claims on or before the day named in said publication and notice may proceed forthwith to elect one or more assignees of said bankrupt estate as hereinafter provided; and in case of failure of the creditors to elect an assignee or assignees on the day named in said notice and publication, then the circuit judge shall appoint an assignee or assignees, who shall immediately give notice by publication of such appointment or election. Any person duly authorized by law to administer oaths shall be, and he is hereby, authorized and empowered to take and administer oaths to all creditors proving their claims against the bankrupt's estate.

§ 1797. A secured creditor shall file with the clerk of the court a statement showing the amount of his claim and a description of the security; and shall therein state whether such security is relied upon, or whether such creditor intends to release the same and claim as an unsecured creditor only. If any secured creditor shall fail to file such statement within sixty days after such adjudication of bankruptcy he shall have no claim over against the estate of such bankrupt for any deficiency after the exhaustion of his security. If any such creditor shall, within sixty days after such adjudication, file with the clerk of the court a statement that he intends to rely upon both remedies, he shall thereupon proceed without any unnecessary delay to realize upon his securities, and, after exhausting the same, he may present a claim for the deficiency; but he shall participate only in such dividends as may be declared after the proof of his claim for such deficiency.

§ 1798. Any creditor may object to the filing or proof of any

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claim, and the hearing shall be had before the circuit judge, and any creditor whose claim is so objected to shall have no voice in the choice of assignees; provided, however, that the creditor or creditors making such objection file an affidavit that such objection is *bona fide*, and is not made for the purpose of depriving the creditors objected to of having a voice or vote in the election of assignees. Either party or the assignees may take an appeal from the decision of the circuit judge to a jury, and upon complying with the requirements in regard to appeals contained in section 1812.

The assignee or assignees shall within one month after his or their appointment, or within the same time after the receipt by him or them of any claim proved against the bankrupt's estate, notify the person or parties who have so proved whether such claim is disputed by him or them.

§ 1799. Creditors may prove their claims at any time before the discharge of the debtor, but shall participate only in such dividends as may be declared after the proof of their claims. Debts not due may be proved allowing a discount for interest, and all persons who are endorsers or surety for the debtor, or who have demands against him as drawer or endorser of any note, or upon any other demands or undertakings whatsoever, may be considered as creditors, provided that the bill, bond, note, or other contract be made before bankruptcy and that the debt demanded shall become absolute before the final dividend of the bankrupt estate.

§ 1800. Upon the election or appointment of an assignee or assignees, as the case may be, the chief sheriff, or his deputy, or the sheriff of the island where the property may be situate, shall immediately deliver all property in his possession or under his control to the assignee or assignees, and the election or appointment of an assignee or assignees shall immediately vest all property, real, personal, or mixed, of said bankrupt in such assignee or assignees.

§ 1801. Claims may be proved before any person duly authorized to administer oaths, by the oaths of the creditors, and to entitle any creditor to have a vote in the election of assignees, he must first prove his claim and file the same with the clerk of the court. All elections for assignees shall be by ballot, and no creditor to an amount less than one hundred dollars shall be entitled to vote. A majority in number and value of all the creditors who have proved their claims shall be necessary to elect an assignee or assignees, and upon a failure the circuit judge presiding shall appoint one or more assignees, as he may think proper. The circuit judge may order the assignee or assignees so elected or appointed to give bonds for the faithful performance of his or their duty, in such sum as he may deem sufficient.

§ 1802. The assignee or assignees shall have full power in his or their own name or names to sue for and collect debts due the bankrupt, and also bring any suit in his or their own name or names which has for its object the recovery of any portion of the bankrupt's property. The assignee or assignees may dispose of all property belonging to the bankrupt of whatever name, nature, or kind at either public or private sale. Such private sales, however, shall be valid only upon confirmation of the court having jurisdiction of the proceedings. If any assignee dies or becomes incapacitated to perform his duties the judge may appoint some other person to fill his place. The assignee or assignees may at any time examine the bankrupt upon oath before the judge as to such matters connected

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with his bankruptcy as he or they may think proper for the interest of the creditors. They shall have power to execute all documents under seal or otherwise necessary or proper to convey the property sold by them to the purchaser.

§ 1803. The assignee or assignees shall immediately after their election or appointment file with the clerk of the court a list of all the assets that have come to their possession or knowledge. They shall make as many dividends of said estate as they may think proper, not to exceed five, among the creditors who have proved their claims, without priority or preference: Provided, however, That all debts due the Government of Hawaii shall be paid in full before any dividend is declared, and provided also, that any employee or servant of a bankrupt shall be entitled to receive in full not more than one month's salary or wages due him at the time of the failure or bankruptcy of his employer.

EFFECT OF BANKRUPTCY.

§ 1804. The bankrupt shall be divested of all his title and interest in his property from the day of his failure (except the necessary clothing of himself and family and such other necessaries, not to exceed the value of three hundred dollars, as the judge may designate), and every assignment, conveyance, or transfer of his property made by him after he shall have become insolvent or committed an act of bankruptcy, except upon a good consideration to a *bona fide* purchaser having no reasonable cause to believe him to be insolvent or bankrupt or in contemplation of insolvency or bankruptcy shall be void, and the property so transferred may be recovered and disposed of by the assignees for the benefit of the creditors.

§ 1805. Upon the filing of a petition as provided in sections 1790 and 1791, all civil suits pending in relation to and all executions or attachments laid upon the bankrupt's property shall be stayed: Provided, however, That any bankrupt may be arrested and imprisoned as a fraudulent debtor upon the sworn petition of any creditor setting forth sufficient cause for such arrest and imprisonment. If any bankrupt shall refuse to deliver or surrender up to the assignee or assignees of his estate any of his effects, books, property, or papers, or shall refuse to answer any question (that may be legally put to him) upon any examination had in his proceedings in bankruptcy, the judge before whom the proceedings are pending may commit such bankrupt to prison until he makes such delivery or surrender or answers such questions.

§ 1806. If any bankrupt has committed any of the offenses hereinafter enumerated, the court may at the examination of the bankrupt, or on the hearing of the application for his discharge by order under seal of the court, adjudge said bankrupt to be imprisoned for any term not exceeding six months, with or without hard labor—that is to say, if the bankrupt (1) has carried on trade by means of fictitious capital; or (2) could not have had at the time when any of his debts were contracted any reasonable or probable ground of expectation of being able to pay the same; or (3) has with the intent to conceal the true state of his affairs willfully omitted to keep at any time proper books or accounts; or (4) has within three years before the commencement of the bankruptcy failed to keep usual and reasonable books and accounts setting forth truthfully the state of his business transactions; or (5) has put any of his creditors to unnecessary expense by

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frivolous or vexatious defense to any action or suit to recover any debt or money due from him; or (6) has in incurring any debt or liability obtained credit under false pretenses or by means of any other fraud; or (7) has with intent to defraud his creditors, or any of them, made or caused to be made any gift, transfer, or deliver of, or any charge on his property; or (8) has with intent to defraud his creditors concealed or removed any part of his property since or within two months before the date of any unsatisfied judgment or order for payment of money obtained against him. The bankrupt may appeal to the supreme court from any order or conviction under this section by perfecting his appeal within ten days after such order or conviction.

DISCHARGE OF BANKRUPT.

§ 1807. Every bankrupt who shall have surrendered, discovered, and delivered over to the assignee or assignees all his property, real and personal, may, after the expiration of six months from the date of his adjudication as a bankrupt, apply to the court for a discharge from all his debts. Upon application for such discharge the judge shall order notice to be given by an advertisement of two weeks and also by mail to all creditors who have proved their debts to appear on the day appointed by such advertisement and notice and show cause, if any they have, why a discharge should not be granted to the bankrupt.

§ 1808. No discharge shall be granted, or if granted be valid, in any of the following cases:

1. If the bankrupt has willfully sworn falsely in his petition, schedule of inventory or upon any examination had in the course of the proceedings in bankruptcy.

2. If the bankrupt has concealed any part of his estate or books or writings relating thereto, or has been guilty of any fraud or negligence in the care, custody, or delivery of the same to his assignee.

3. If at any time he has mutilated, destroyed, altered, or falsified any of his books, documents, papers, writings, or securities, or has made or been privy to the making of any false or fraudulent entry in any book of account or other document with intent to defraud his creditors, or has removed, or caused to be removed, any part of his property with intent to defraud his creditors.

4. If the bankrupt has made any fraudulent payment, gift, transfer, conveyance, or assignment of any part of his property or has lost any part thereof in gaming, or has admitted a false or fictitious claim against the estate.

5. If the bankrupt, having knowledge that any person has proved such false or fictitious claim, has not disclosed the same to his assignee within one month after such knowledge.

6. If a bankrupt, being a merchant or tradesman, has not at all times after the approval of this chapter kept proper books of account.

7. If the bankrupt, or any person on his behalf, has at any time during the stage of the proceedings influenced the action of any creditor by any pecuniary consideration or obligation.

8. If the bankrupt has, in contemplation of becoming bankrupt, made any pledge, payment, transfer, assignment, or conveyance of any part of his property, directly or indirectly, absolutely or conditionally, for the purpose of preferring any creditor or person having a claim against him, or who is or may be under liability for him, or for the purpose of preventing the property from coming into the hands of the assignees, or of being distributed in satisfaction of his debts.

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9. If the bankrupt has committed any fraud in the contracting of his liability.

§ 1809. Any creditor who has proved his claim, opposing the discharge of any bankrupt, shall file a specification in writing of the grounds of his opposition, and the judge shall thereupon proceed to hear and determine such objections and specifications.

§ 1810. Before any discharge is granted, the bankrupt shall take and subscribe an oath to the effect that he has not done, suffered, or been privy to any act, matter, or thing specified as a ground for withholding such discharge, or as invalidating the same if granted.

§ 1811. If it shall appear to the judge that the bankrupt has in all things complied with the requirements of this chapter and that under the provisions thereof he is entitled to a discharge, the court shall grant him a discharge from all his debts, provided, however, that such discharge shall not apply to such debts as have been created by fraud or embezzlement, or by defalcation, as a public officer, or while acting in any fiduciary capacity.

§ 1812. Any person interested may except to any decision of the judge in proceedings under this chapter and appeal therefrom to the supreme court, provided such party give notice of his appeal within five days after the rendition of such decision and file a bond within said five days in the penal sum of one hundred dollars with the clerk of the court, conditioned for the payment of all costs arising from said appeal in case it shall not be sustained.

DISCHARGE OF ASSIGNEE.

§ 1813. The judge may at any time, upon the motion of one or more creditors who have proved his or their claims, require the assignee or assignees to file his or their accounts, and if he or they have funds subject to distribution may require him or them to distribute them forthwith. The judge may remove any assignee at any time for cause shown, and the assignee so removed shall immediately deliver to his associate assignee, or to the assignee appointed in his place, all funds, property, books, vouchers, or securities belonging to the bankrupt estate in his possession, without charging or retaining any commission or compensation for his services.

§ 1814. Preparatory to the final account and dividend, the assignee or assignees shall submit his or their accounts to the judge and file the same, and shall thereupon give notice to all the creditors who have proved their claims that he will apply for a settlement of such accounts and for a discharge from all liability as assignee or assignees at a time specified in such notice. At the hearing the judge shall audit the accounts and any person interested may appear and contest the same. The judge may thereupon, at his discretion, pass the accounts and order a dividend of any portion of the estate remaining undistributed, and shall discharge the assignee or assignees.

§ 1815. The costs of proceedings under this chapter, except in cases where the petitioner fail to prove the person petitioned against a bankrupt, shall be borne by the bankrupt's estate.

§ 1816. The assignee or assignees shall be allowed ten per cent on all moneys received and paid out up to and not exceeding one thousand dollars; and five per cent on all sums over one thousand dollars; and he or they shall be allowed all other reasonable expenses incurred in the administration of their trust.

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PARTNERSHIPS AND CORPORATIONS.

§ 1817. Two or more persons who are partners in business may be adjudged bankrupt, either on the petition of such partners or any one of them, or on the petition of one or more creditors of the partnership, in which case an order shall issue as provided by this chapter, upon which all the joint stock and property of the partnership, and also all the separate estate of each partner, shall be taken, except such parts thereof as may be exempt by law from levy and execution, and all the creditors of the partnership and the separate creditors of each partner shall be allowed to prove their claims, and the assignee or assignees shall be chosen by the creditors of the copartnership. Such assignee or assignees shall keep separate accounts of the joint stock or property of the copartnership and of the separate estate of each partner thereof; the net proceeds of the joint stock shall be appropriated to pay the creditors of the copartnership, and the net proceeds of the separate estate of each partner shall be appropriated to pay his separate creditors, and if there shall be any balance thereafter such balance shall be added to the joint stock for the payment of joint creditors.

§ 1818. In all other respects the proceedings as to partners shall be conducted in like manner as if they had been commenced and prosecuted by or against one person. If the petition be filed by less than all the partners of a copartnership those partners who do not join shall be proceeded against in the same manner as in the case of the other debtors who are required to show cause upon a creditor's petition.

§ 1819. The provisions of this chapter shall apply to corporations, and upon the petition of any officer of a corporation duly authorized by a vote of the board of directors or trustees at a meeting specially called for that purpose, or by the assent in writing of a majority of the directors or trustees, as the case may be, or upon a creditor's petition made and presented in the manner provided by this chapter, the like proceeding shall be had and taken as are provided in the case of debtors. All the provisions of this chapter which apply to debtors shall apply to each and every officer of any corporation in relation to the same matters concerning the corporation. Whenever any corporation shall be declared bankrupt all its property and assets shall be distributed among its creditors.

NOTE TO CHAPTER 116.

§ 1790 is S. L. 1888, ch. 22. §§ 1791–1793 are S. L. 1884, ch. 35. §§ 1794–1795 are S. L. 1888, ch. 22. § 1796 is S. L. 1892, ch. 93. § 1797 is S. L 1888, ch. 22. § 1798 is S. L. 1892, ch. 93 and S. L. 1888, ch. 22. §§ 1799–1800 are S. L. 1884, ch. 35. § 1801 is S. L. 1892, ch. 93. §§ 1802–1804 are S. L. 1884, ch. 35. §§ 1805–1806 are S. L. 1888, ch. 22. §§ 1807–1815 are S. L. 1884, ch. 35. § 1816 is S. L. 1888, ch. 22. §§ 1817–1819 are S. L. 1884, ch. 35.

Cases in Hawaiian Reports:

Proof of bankruptcy (§§ 1790–1792): Pelly v. Waldo, 1 Haw., 32; Fallon v. Robinson, 2 Haw., 227; Bolles v. Padeken, 3 Haw., 664; Peacock v. Lovejoy, 5 Haw., 231; Bankruptcy Padeken, 6 Haw., 169; Re Aldrich, 9 Haw., 237; Re Tai Wo Chan, 9 Haw., 507.

Assignee and proof of claims (§§ 1796–1803): McDonald v. Green, 5 Haw., 325; Kerr v. Hyman, 6 Haw., 308; Austin v. Michiels, 6 Haw., 595; Hopper v. Parke, 7 Haw., 185; Re Richardson, 9 Haw., 488; Re Tai Lung, 9 Haw., 128.

Effect of bankruptcy (§§ 1804–1805): Raymond v. Dole, 4 Haw., 232; Spencer v. Parke, 4 Haw., 452; Hackfeld v. Ing Choi, 5 Haw., 136; West v. Kerr, 5 Haw., 445; Parke v. See Hop, 6 Haw., 747; Parke v. Austin, 7 Haw., 79; Bankruptcy On Chong, 7 Haw., 377; Castle v. Smith, 7 Haw., 579; Damon v. Dickson, 7 Haw.,

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694; Kamakuolua v. Thow Choy, 8 Haw., 245; Bankruptcy Johnson, 8 Haw., 730; Cannon v. Poor, 10 Haw., 576.

Conveyances in fraud of creditors (§ 1804): Fallon v. Robinson, 2 Haw., 227; Parke v. Lau Ng, 5 Haw., 515; Bishop v. Davies, 6 Haw., 520; Lenehan v. Akana, 6 Haw., 538; Cartwright v. Hoffnung, 6 Haw., 601; Smith v. Castle, 6 Haw., 697; See Hop v. Soper, 7 Haw., 4; Cook v. Dayton, 8 Haw., 8; Vierra v. Hackfeld, 8 Haw., 436; Macfarlane v. Spencer, 8 Haw., 645; Jones v. Norton, 9 Haw., 444; Bossee v. Branco, 10 Haw., 335; Lose v. Davies, 10 Haw., 591.

Imprisonment of bankrupt (§ 1806): Re Ahung, 9 Haw., 448.

Discharge of bankrupt (§§ 1807–1812): Bankruptcy Allen, 6 Haw., 146; Bankruptcy Gonveia, 8 Haw., 253; Alee Wong Leong, 8 Haw., 442; Re Borba, 9 Haw., 442.

Discharge of assignee (§§ 1813–1816): Bankruptcy Aiona, Haw., 203.

CHAPTER 117.

COMMISSIONERS OF PRIVATE WAYS AND WATER RIGHTS.

§ 1820. The word "commisioner," wherever used in this chapter, shall refer to the commissioner of private ways and water rights. The word "court" shall refer to and mean the circuit or supreme court, as the case may be. The word "party" or "parties" shall refer to and mean the respective parties to the controversy before the commissioner or court. The word "controversy" shall refer to and mean the matter or question at issue before the commissioner or court. The words "private individuals or persons" shall relate to and mean either individuals, companies, or corporations, the commissioners of crown lands, or any others except the government.

§ 1821. There shall be appointed by the governor, in each election district of the Territory, one competent person to act as commissioner of private ways and water rights: Provided, however, That nothing herein shall prevent the appointment of one person for two or more districts, if the same can be done without prejudice to the rights of the inhabitants thereof.

No person shall act as commissioner in any case in which he shall have a direct personal interest, or where he shall have direct business relations with either party, or shall be connected with either by ties of relationship of blood or marriage. In case of disability from these or any other cause, a commissioner pro tem. shall be appointed at once by the governor. Any vacancy shall be filled as soon as possible by the said governor.

§ 1822. It shall be the duty of said commissioners within their several districts to hear and determine all controversies respecting rights of private ways and water rights between private individuals, or between private individuals and the government. Any person or persons interested, or the government, may apply for the settlement of any rights involved hereunder, whereupon the commissioner shall issue a written or printed summons in like form as that used in the district courts to the party or parties defendant. It shall be personally served upon each landowner or occupant having an interest in the controversy, whenever such owner or occupant can be found. If, however, such owner or occupant can not be found for such service, the commissioner shall cause notices in the Hawaiian or English language, as the case may be, to be published either by posting upon the premises the owners or occupants whereof can not be found, or by insertion in one or more newspapers, which publication shall continue for at least two full weeks prior to the date set for hearing. Such notice shall designate the time and place of hearing, shall indicate the nature of application made, and shall notify all parties interested

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to attend and prove their rights, or they will be adjudicated without such attendance, besides any other matter deemed important by the commissioner. Such notice may be published in any case in the discretion of the commissioner. No summons shall be set aside or dismissed because of any technical informality, provided it shall set forth the time and place of hearing and the nature of the right claimed in terms sufficiently clear for the apprisal of all parties interested. Parties may appear personally or by properly authorized attorney.

§ 1823. At the time set for hearing, service of summons or publication of notice having been proved, the commissioner shall hear the evidence offered relative to the right in controversy, and shall, as far as possible, ascertain the rights of absent parties, not served where notice as herein provided shall have been published. He may, if deemed desirable or conclusive to the rendering of a correct decision, visit the locality where the controversy arose. He shall give such decision as may in each particular case appear to be in conformity with vested rights, and shall be just and equitable between the parties. The decision shall state expressly the findings of fact on the evidence, and shall in cases of right of way clearly indicate the location (if possible) and nature of the way. If on a water right, it shall state the proportion or time for use and any other things necessary to the right. It may also regulate the methods by which water may be obtained and by which its supply can be controlled. All of the testimony and the decision shall be recorded in books of record to be kept and preserved by the commissioner. The said books, when filled, shall be deposited with the clerks of the respective courts. The decisions of the several commissioners shall be final and binding upon all parties except those who may be absent from the territory without a legal representative in this territory during the whole time of the pendency of such suit, subject to the right of appeal.

§ 1824. There may be taxed as costs in cases arising hereunder, besides the usual statutory costs, as allowed in the district courts for service, summons, oaths, and otherwise, the fees of the commissioner, six dollars a day for each day's hearing and his reasonable actual expenses in visiting the locality, and not over twenty cents a folio for copies of the evidence and decision either on appeal or as furnished to any party. The costs may, in the discretion of the commissioner, be divided or taxed to the losing party. In case of appeal the final award as to costs shall abide the decision of the court.

§ 1825. Any party aggrieved by the decision of the commissioner may appeal therefrom to the court within ten days from the rendition of the decision, and within said period shall pay all costs accrued and for certificate and record on appeal, and shall deposit with the commissioner a good and sufficient bond to the clerk of the court, in the sum of one hundred dollars, conditioned for the payment of costs further to accrue in case of defeat. In case of appeal the commissioner shall promptly transmit to the clerk of the court a copy of the record, together with any exhibits filed, the bond for costs, and all costs not strictly retainable by him or actually disbursed. The court may permit the introduction of new evidence which could not with due diligence have been obtained before, and its decision shall be final and binding except as aforesaid.

§ 1826. The commissioner shall have power to administer oaths, to punish contempts, to grant adjournments, to subpœna and compel the attendance of witnesses, to issue execution for costs, to enforce a specific performance of judgment, and generally to exercise the same

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authority in regard to their special jurisdiction as is by law conferred upon district magistrates.

§ 1827. Nothing in this chapter contained shall be construed to interfere with the several laws authorizing the superintendent of public works to take possession of land or water for the benefit of the Honolulu Water Works.

[§§ 1828–1832.]

NOTE TO CHAPTER 117.

§§ 1820–1827 are S. L. 1888, ch. 26.

Cases in Hawaiian Reports: Davis v. Afong, 5 Haw., 217; R. v. Aiona, 5 Haw., 144; Kahai v. Rose, 8 Haw., 272; Lishman v. Perry, 7 Haw., 267; Lonoaea v. Wailuku Co., 9 Haw., 652; Chun Lai v. Mang Yong, 10 Haw., 133; Horner v. Kumuliilii, 10 Haw., 174; Wong Leong v. Irwin, 10 Haw., 265; Kaleiopu v. Booth, 10 Haw., 453; Wailuku Co. v. Cornwell, 10 Haw., 476.

CHAPTER 118.

REGISTRAR OF CONVEYANCES.

§ 1833. There shall be a bureau in the department of the interior to be called the bureau of conveyances; and the governor shall appoint, upon the nomination of the treasurer, some suitable person to superintend said bureau, under the direction of the treasurer, who shall be styled the "registrar of conveyances" and hold his office at the pleasure of the governor.

§ 1834. Said registrar shall take an oath faithfully to discharge the duties of his office, and he shall give to the treasurer, for the benefit of the public, a bond in the penalty of at least one thousand dollars, conditioned to answer to any party aggrieved, upon assignment thereof, for any damages, losses, or injuries sustained by reason of his negligence, carelessness, or misconduct in office, or by reason of false certificates of search or encumbrance by him at any time made or given to the detriment of the party prosecuting.

§ 1835. The said registrar shall be entitled to demand and receive the following fees, viz:

1. For the registry of any deed, lease, mortgage, or other instrument required by law to be recorded or presented for record, fifty cents for one hundred words.

2. For taking any acknowledgment preparatory to registry, one dollar for each party signing.

3. For every copy of any instrument recorded in this office, authenticated by his seal of office, fifty cents for one hundred words.

4. For searching the records and giving the certificate required by law, twenty-five cents for each year searched.

Such fees shall be paid into the public treasury weekly, and a monthly account thereof shall be rendered by the said registrar to the treasurer.

The registrar of conveyances shall receive such salary as may be appropriated by the legislature.

§ 1836. The said registrar shall, under the direction of the treasurer, appoint a deputy, for whose official acts he shall be responsible, and whose appointment he shall cause to be announced in the government gazette. It shall be the duty of such deputy to act as registrar of conveyances during the absence of the registrar, or in case of a vacancy in that office.

§ 1837. The said registrar may, under the direction of the treasurer, appoint suitable persons throughout the Territory as agents for taking

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and certifying the acknowledgment of instruments to be recorded in his office.

§ 1838. It shall not be lawful to record any conveyance or other instrument required by law to be stamped, unless the same shall have been previously stamped as provided in section 927.

§ 1839. To entitle any conveyance or other instrument to be recorded, it shall be acknowledged by the party or parties executing the same before the registrar of conveyances, or his agent, or some judge of a court of record, or notary public of this Territory, or before some notary public or judge of a court of record in any foreign country. But if any party to an instrument executed within this Territory shall die or depart from the Territory without having acknowledged his deed, or shall refuse to acknowledge it, the deed may be entered of record on proof of its execution by a subscribing witness thereto, before any judge of a court of record of this Territory. If all the subscribing witnesses to such conveyance or other instrument shall be dead or out of the Territory, the same may be proved before any court of record of this Territory, by proving the handwriting of the grantor and any subscribing witness.

IDENTIFICATION OF PERSONS OFFERING ACKNOWLEDGMENTS TO INSTRUMENTS.

§ 1840. No acknowledgment of any conveyance or other instrument whereby any real estate is conveyed or may be affected shall be taken, unless the person offering to make such acknowledgment shall be personally known to the officer taking the same to be the person whose name is subscribed to such conveyance or instrument as a party thereto, or shall be proved to be such by the oath or affirmation of a credible witness known to the officer.

§ 1841. The certificate of such acknowledgment shall state the fact of acknowledgment and that the person making the same was personally known to the officer granting the certificate to be the person whose name is subscribed to the instrument as a party thereto, or was proved to be such by the oath or affirmation of a credible witness known to the officer, whose name shall be inserted in the certificate.

§ 1842. Such certificate shall be substantially in the following form, to wit:

TERRITORY OF HAWAII,
Island of ————. *ss:*

On this —— day of ——— A. D. ———, personally appeared before me A. B., known to me to be the person described in and who executed the foregoing instrument, who acknowledged to me that he executed the same freely and voluntarily and for the uses and purposes therein set forth.

§ 1843. When the person offering the acknowledgment is unknown to the officer taking the acknowledgment, the certificate shall be substantially in the following form, to wit:

TERRITORY OF HAWAII,
Island of ——— ——, *ss:*

On this —— day of ———, A. D. ———, personally appeared before me A. B., satisfactorily proved to me to be the person described in and who executed the within instrument, by the oath of C. D., a credible witness for that purpose, to me known and by me duly sworn,

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and he, the said A. B., acknowledged that he executed the same freely and voluntarily for the uses and purposes therein set forth.

§ 1844. No certificate of acknowledgment contrary to the provisions of this chapter shall be valid in any court of this Territory, nor shall it be entitled to be recorded in the registry of public conveyances.

§ 1845. This chapter shall take effect and become a law from and after the date of its passage, but no certificate of acknowledgment executed before this chapter shall take effect shall in consequence of anything herein contained be deemed invalid.

Approved this 29th day of July, A. D. 1872.

§ 1846. It shall not be lawful to enter of record any release of dower in lands or other property, signed by an undivorced wife, without her previous acknowledgment to the registrar of conveyances, or one of his agents, or some officer authorized to receive such acknowledgment, apart from her husband, that she had signed such release without compulsion, fear, or constraint from her husband.

§ 1847. Every officer who shall take the acknowledgment or proof of any instrument shall endorse a certificate thereof, signed by himself, on the instrument, and in cases of proof give the names of the witnesses examined before him, their places of residence, and the substance of the evidence by them given.

§ 1848. Every conveyance or other instrument, stamped and acknowledged or proved, and certified in the manner hereinbefore prescribed, by any of the officers before named, may be read in evidence without further proof thereof, and shall be entitled to be recorded.

§ 1849. The record of an instrument duly recorded, or a transcript thereof, duly certified, may also be read in evidence, with the like force and effect as the original instrument. Neither the certificate of acknowledgment, nor the proof of any instrument, shall be conclusive, but may be rebutted, and the force and effect thereof may be contested by any party affected thereby. If the party contesting the proof of an instrument shall make it appear that such proof was taken upon the oath of an interested or incompetent witness, neither such instrument nor the record thereof shall be received in evidence until established by other competent proof.

§ 1850. Every instrument entitled by law to be recorded shall be recorded in the order and as of the time when the same shall be delivered to the registrar for that purpose, and shall be considered as recorded from the time of such delivery.

§ 1851. It shall be the duty of the registrar of conveyances to make an entire liberal copy of all instruments required to be recorded in his office in books suitable for that purpose, which shall be provided by the treasurer, and at the foot of said copy certify its correspondence with the original, after which he shall certify upon the exterior, or endorse upon said recorded instrument, the date of its registry, the book in his office in which, and the page of said book at which, it was registered.

§ 1852. All deeds, leases for a term of more than one year, or other conveyances of real estate within this Territory shall be recorded in the office of the registrar of conveyances, and every such conveyance not so recorded shall be void as against any subsequent purchaser, in good faith and for a valuable consideration, not having actual notice of such conveyance, of the same real estate, or any portion thereof, whose conveyance shall be first duly recorded.

§ 1853. All mortgages of chattel property, indentures of appren-

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ticeship, articles of marriage settlement, powers of attorney for the transfer of real estate within this Territory, and agreements of adoption, shall, in order to their validity, be recorded in the office of the registrar of conveyances, in default of which no such instrument shall be binding to the detriment of third parties, or conclusive upon their rights and interests.

§ 1854. The registrar of conveyances shall, when applied to therefor, furnish an attested copy of any instrument or document recorded in his office, and he shall also give certificates of search or incumbrance, or of any fact appearing upon his records, upon being paid the fees hereinbefore specified.

§ 1855. All records of instruments made in the office of the registrar of conveyances anterior to the tenth day of July, A. D. 1850, whether in the book required by law or otherwise, shall be deemed to have been duly recorded.

§ 1856. All conveyances of real and personal property made and executed anterior to the passage of this chapter, and all pledges of property, real or personal, executed anterior to the passage of this chapter, the conditions of which have not been fulfilled when this chapter is promulgated, shall be recorded in the office of the registrar of conveyances at the instance and expense of the grantee or mortgagee within ninety days after the promulgation thereof; and all such conveyances and pledges not so registered shall be void in law as against subsequent grantees and mortgagees of the same property, not having notice of the existence of such previous conveyances or pledges.

April 27, 1846.

§ 1857. No instrument in which there are interlineations, erasures, or changes shall be recorded by the registrar of conveyances, unless the same are duly initialed and noted by the officer or officers taking the acknowledgment or acknowledgments to the same.

§ 1858. Each and every interlineation, erasure, or change made in any record in the office of the registrar of conveyances shall be initialed in the margin by the registrar or his deputy, and the interlineation, erasure, or change made shall be noted at the foot of the record in the handwriting and over the signature of the registrar or of his deputy.

NOTE TO CHAPTER 118.

§§ 1833–1834 are C. L. §§ 1249–1250. § 1835 is S. L. 1888, ch. 13. §§ 1836–1839 are C. L. §§ 1252–1255. §§ 1840–1845 are S. L. 1872, ch. 28, C. L., p. 407. §§ 1846–1855 are C. L. §§ 1256–1265. § 1856 is act 1846, C. L., p. 410. §§ 1857–1858 are S. L. 1896, act 55.

Penalties for violations of this chapter, see Penal Laws, §§ 1340–1341.

Cases in Hawaiian Reports: Rives v. Makulu, 2 Haw., 166; Ellis v. White, 3 Haw., 205; Davis v. Spencer, 3 Haw., 274; Achi v. Kauwa, 5 Haw., 298; Hackfeld v. Akina, 6 Haw., 114; Lenehan v. Akana, 6 Haw., 540; Black v. Castle, 7 Haw., 274; Cook v. Dayton, 8 Haw., 9.

CHAPTER 119.

NOTARIES PUBLIC.

§ 1859. There shall be appointed by the attorney-general one or more suitable persons in each of the judicial circuits of the Territory to be notaries public and to hold office as such notaries until removed by such attorney-general.

§ 1860. No person who is not a citizen of this Territory shall be eligible to the office of notary public; and every person appointed to that office shall, before entering thereon, take and subscribe an oath for the faithful discharge of his duties, which oath shall be filed in the department of the attorney-general.

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§1861. Every notary public shall constantly keep a seal of office, whereon shall be engraven his name and the words "notary public" and "Hawaiian Islands."

§1862. It shall be his duty, when requested, to enter on record all losses or damages sustained or apprehended, by sea or land, and also all averages, and such other matters as, by mercantile usage, appertain to his office, and cause protest thereof to be made, duly and formally.

§1863. All facts, extracts from documents, and circumstances so noted shall be signed and sworn to by all the persons appearing to protest; and he shall note, extend, and record the protest so made; and shall grant authenticated copies thereof, under his signature and notarial seal, to those who request and pay for the same. He shall also, in behalf of any person interested, present any bill of exchange, or other negotiable paper, for acceptance or payment to any party on whom the same is drawn, or who may be liable therefor; and notify all endorsers or other parties to such bill or paper; and he may, in general, do all the acts to be done by notaries public by the usages of merchants or which are authorized by the laws of this Territory.

§1864. The protest of any foreign or inland bill of exchange, or promissory note or order, duly certified by any notary public, under his hand and official seal, shall be legal evidence of the facts stated in such protest, as to the same, and also as to the notice given to the drawer or endorser in any court of law.

§1865. Whenever any promissory note, bill of exchange, draft, or order for the payment of money, payable at a future day, or at sight, and not on demand, shall become payable in this Territory, the maker of any such note, and the acceptor of any such bill of exchange, respectively, shall be entitled to a grace of three days, unless the third day happen to be Sunday, or a day of public fast or thanksgiving appointed by the governor, in which excepted cases a grace of two days only shall be allowed.

§1866. Every notary public shall record at length in a book of records all acts, protests, depositions, and other things by him noted or done in his official capacity; and all copies or certificates by him granted shall be under his hand and notarial seal, and shall be received as evidence of such transaction.

§1867. Every notary public of this Territory is hereby authorized to administer oaths in all cases in which oaths are by law authorized or required to be taken or administered, or in which the administering of an oath may be proper; and all oaths heretofore administered by notaries public are hereby declared valid and binding.

§1868. Every notary public shall be entitled to demand and receive the following fees, viz:

1. For noting the protest of merchantile paper, two dollars.
2. For each notice and certified copy of protest, two dollars.
3. For noting any other protest, three dollars.
4. For every notice thereof, and certified copy of protest, three dollars.
5. For every deposition, or official certificate, two dollars.
6. Administration of an oath, including the certificate of such oath, twenty-five cents.

NOTE TO CHAPTER 119.

§ 1859 is S. L. 1887, ch. 11. §§ 1860–1866 are C. L., §§ 1267–1273. § 1867 is S. L. 1888, ch. 6. § 1868 is C. L., § 1276, and S. L. 1888, ch. 6.

Duties of notaries public, see also penal laws, §§ 1334–1335.

Cases in Hawaiian Reports: Lenehan v. Akana, 6 Haw., 538; Re Notaries, 8 Haw., 562; Bishop v. Williams, 9 Haw., 299.

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TITLE IX.

DOMESTIC RELATIONS.

CHAPTER 120.

MARRIAGE.

§ 1869. It shall not be lawful for any minister of religion of any sect whatsoever, or any other person, to perform the marriage ceremony within this Territory, without first obtaining from the treasurer a license to celebrate marriage.

§ 1870. In order to make valid the marriage contract, it shall be necessary that the respective parties be not to each other within the fourth degree of consanguinity; that the male at the time of contracting the marriage shall be at least seventeen years of age, and the female at lease fourteen years of age; that the man shall not at the time have any lawful wife living and that the woman shall not at the time have a lawful husband living; and it shall in no case be lawful for any person to marry in this Territory without a license for that purpose duly obtained from the agent duly appointed to grant licenses to marry.

§ 1871. The marriage rite may be performed and solemnized by any person duly authorized by law, upon presentation to him of a license to marry, as prescribed by the foregoing section, who may be at liberty to receive the price to be stipulated by the parties, or the gratification tendered to him.

§ 1872. Marriages legal in the country where contracted shall be held legal in the courts of this Territory.

§ 1873. When a male under twenty years of age, or female under eighteen years of age, is to be married, the consent of the parent, guardian, or other person having the care and government of such party, if within the Territory, shall be first obtained.

NOTE TO CHAPTER 120.

§ 1869 is C. L., 1283. § 1870 is S. L. 1872, Ch. 23, C. L., p. 423. § 1871 is C. L., § 1285, §§ 1872–1873 are C. L., §§ 1290–1291.

Marriage records must be kept, see P. L., § 1343, etc. And transmitted to registrar, see P. L., § 966.

Cases in Hawaiian Reports: Puuku v. Kaleleku, 8 Haw., 78; R. v. Waipa, 10 Haw. 442.

CHAPTER 121.

CHILDREN.

§ 1874. The children of a valid marriage shall be denominated legitimate; and the husband of said marriage shall be liable for their suitable and proper support in all respects, until they severally attain the age of majority, when his liability shall cease for further provision. He shall also be entitled to control and manage his children in all respects during their minority, and require reasonable service at their hands.

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He shall be the natural guardian of their persons and of their property; he shall be liable in damages for tortuous acts committed by them, and entitled to prosecute and defend all actions at law in which they or their individual property may be concerned.

§ 1875. Children whose parents shall not have been legally married, in contemplation of this article, shall be denominated bastards, and shall not be entitled to inherit from their male parents, without express bequest; provided, nevertheless, that the female parent shall be compellable to maintain and support them during minority, and they shall be capable to take by inheritance from the mother without will.

§ 1876. All children born out of wedlock are hereby declared legitimate on the marriage of the parents with each other, and are entitled to the same rights as those born in wedlock.

NOTE TO CHAPTER 121.

§§ 1874–1875 are C. L., §§ 1288–1289. § 1876 is S. L. 1866, C. L., p. 427.
Casesin Hawaiian Reports: Hopkins v. Chung Wa, 4 Haw., 650; Hanuna v. Unna, 6 Haw., 468.

CHAPTER 122.

NAMES.

§ 1877. All married women now living, and all that may be married hereafter, on these islands shall, on and after the passage of this chapter, adopt the names of their husbands as a family name.

§ 1878. All children born in wedlock after the passage of this chapter shall have their father's name as a family name. They shall, besides, have a Christian name suitable to their sex.

§ 1879. All illegitimate children born after the passage of this chapter shall have their mother's name as a family name. They shall, besides, have a Christian name suitable to their sex.

§ 1880. All children up to the age of twenty years shall adopt the names of their fathers as a family name.

§ 1881. All names so adopted shall be reported to the agents appointed to take the census of the people during the present year.

§ 1882. It shall not be lawful to change any name adopted or conferred under this law. It shall also not be lawful to change any name adopted or conferred before the operation of this law except upon a decree of the governor, which decree shall be founded upon the petition of the person desirous of changing his or her name, and shall be duly published for the information of the public for at least four consecutive weeks in some public journal in such decree mentioned.

§ 1883. The father or mother of any children born subsequently to the passage of this chapter shall report the name or names of such child to the registrar of births for the district in which such child was born within three months after the birth of such child.

NOTE TO CHAPTER 122.

§§ 1877–1883 are S. L. 1860, amended S. L. 1872, ch. 30, C. L. p. 506.

CHAPTER 123.

RIGHTS OF MARRIED WOMEN.

§ 1884. The real and personal property of a woman shall, upon her marriage, remain her separate property, free from the management, con-

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trol, debts, and obligations of her husband; and a married woman may receive, receipt for, hold, manage, and dispose of property, real and personal, in the same manner as if she were sole: Provided, however, That no sale or mortgage of her real estate shall be valid without the written consent of her husband.

§ 1885. A married woman may make contracts, oral and written, sealed and unsealed, in the same manner as if she were sole, except that she shall not be authorized hereby to make contracts for personal service without the consent of her husband, nor to contract with her husband.

§ 1886. All work and labor performed or services rendered by a married woman for or to a person other than her husband and children shall, unless there is an express agreement on her part to the contrary, be presumed to be performed or rendered on her separate account.

§ 1887. A married woman may be an executrix, administratrix, guardian, or trustee, and may bind herself and the estate she represents without any act or assent on the part of her husband.

§ 1888. A married woman may sue and be sued in the same manner as if she were sole; but this section shall not be construed to authorize suits between husband and wife.

§ 1889. A married woman shall not be liable for the debts of her husband; nor shall her property be liable to be taken on execution or other process against him, except as provided in section 1893.

§ 1890. A husband, whether married in this Territory or in some other country and residing in this, shall be bound to maintain, provide for, and support his wife during marriage in the same style and manner in which he supports himself, and shall be liable for all the debts contracted by his wife for necessaries for herself or family during marriage, except such debts as may be contracted by her in the course of or in connection with any separate business which she may carry on, as provided in section 1893. The husband shall be personally responsible for all the tortious acts of his wife done by and with his authority or consent, and for none other. In case the wife shall die first and intestate, then her property shall immediately descend to her heirs, but shall be in all cases, whether she die testate or intestate, subject to a life interest in the husband in one-third of the wife's real estate.

§ 1891. A husband shall not be liable to be sued upon a cause of action which originated against his wife prior to their marriage, nor shall he be liable to pay any judgment that may be recovered against his wife, except as provided in section 1893.

§ 1892. The contracts made by a married woman in respect to her separate property, trade, business, labor, or services shall not, except as provided in the following section, be binding on her husband nor render him or his property liable therefor; but she and her separate property shall be liable on such contracts in the same manner as if she were sole.

§ 1893. When a married woman does, or proposes to do, business on her separate account, she or her husband shall file in the office of the treasurer a certificate setting forth her name and residence and the name and residence of her husband, the nature of the business, and the place where it is or is proposed to be carried on, giving, if practicable, the street and the number on the street; and when the nature of the business or the place where it is carried on is changed, a new certificate shall be filed accordingly. The treasurer shall cause to be kept a book wherein shall be recorded the certificates so filed, and shall charge the sum of one dollar for recording each of such certificates. Such book shall be properly indexed, and shall, during all business hours, be open to the inspection of the public without charge. If such certificate be

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not filed as aforesaid, the personal property employed in such business shall be liable to be attached as the property of the husband and to be taken on execution against him; and the husband shall be liable upon all contracts lawfully made in the prosecution of such business in the same manner and to the same extent as if such contracts had been made by himself.

§ 1894. Nothing contained in the foregoing sections shall invalidate any marriage settlement or contract.

§ 1895. Nothing in sections 1884–1895 contained shall affect any rights of property which have already accrued under any law heretofore in existence.

DESERTION.

§ 1896. Any judge of any circuit court, on application of any married woman, whose husband has absented himself from the Territory, abandoning her, and not making sufficient provision for her maintenance, may empower her, during his absence and till his return, in her own name, to make and execute any contract under seal or otherwise.

§ 1897. She may also be authorized to make sale of any estate, real or personal, of which she is seized or possessed in her own right, and duly execute all legal instruments necessary for that purpose.

§ 1898. She may also commence, prosecute, and defend any action, in law or in equity, to final judgment and execution, in like manner as if she were unmarried.

§ 1899. The circuit courts may also, on her petition, authorize any person holding money or other personal property to which the husband is entitled in her right, to pay and deliver the same to the wife, and authorize her to give a discharge for the same, which shall be valid; and to use and dispose of such property, during the absence of her husband, as her own property.

§ 1900. Upon application, for any of the purposes before mentioned, the judge, before granting any of the powers before mentioned, shall order notice to be given by publishing the same for three consecutive weeks in one of the newspapers issued in Honolulu, the last publication of which to be at least three calendar months before the granting of the application.

§ 1901. All contracts lawfully made by any married woman, by virtue of any power given her as aforesaid, shall be binding on her and her husband, in like manner as if their marriage had taken place after such contracts; and during his absence she shall be liable to be sued thereon as if she were unmarried, and for all other acts done by her while the power granted to her is continued.

§ 1902. No suit pending, where the wife shall be a party pursuant to power granted her, as before mentioned, shall abate by her husband's return to the Territory, but on his application he may be admitted to prosecute or defend jointly with her as if their intermarriage had taken place after the commencement of such suit, but if he shall not be admitted as a party, judgment shall be rendered, and execution issued and enforced by or against her in the same manner as if judgment had been rendered for or against her before their intermarriage.

LIFE INSURANCE.

§ 1903. Any married woman, by herself, and in her name, or in the name of any trustee, with assent of her husband, may cause his life to be insured for any term of time. If she shall survive her husband,

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the amount of insurance due and payable upon her husband's decease shall be payable to her own use, free from the claims of her husband or his creditors.

§ 1904. In case the wife shall not be living at the decease of her husband, the amount of such insurance shall be paid to her personal representatives and accounted for as part of her estate, or it may be expressly made payable to any child or children.

§ 1905. Sections 1903, 1904 shall not be construed to authorize the payment of a larger annual premium than five hundred dollars out of any property of the husband.

NOTE TO CHAPTER 123.

§§ 1884–1895 are S. L. 1888, ch. 11. §§ 1896–1902 are C. L., §§ 1292–1298. §§ 1903–1905 are S. L. 1868, C. L., p. 429.

Cases in Hawaiian Reports: Kamakaohua v. Thow Choy, 8 Haw., 245; Silva v. Silva, 8 Haw., 496; Bankruptcy, Johnson, 8 Haw., 732; Nam Chong v. Lau Kona, 9 Haw., 370; Dowsett v. Jones, 9 Haw., 544; Iaukea v. Cummings, 9 Haw., 558.

CHAPTER 124.

DOWER.

§ 1906. Every woman shall be endowed of one-third part of all the lands owned by her husband at any time during marriage, in fee simple, in freehold, or for the term of fifty years or more, so long as twenty-five years of the term remain unexpired, but in no less estate, unless she is lawfully barred thereof; she shall also be entitled, by way of dower, to an absolute property in the one-third part of all his movable effects, in possession, or reducible to possession, at the time of his death, after the payment of all his just debts.

§ 1907. If a husband seized of lands in fee simple, freehold, or for a term of fifty years, as specified in the preceding section, shall exchange them for other lands, his widow shall not have dower in both, but shall make her election to be endowed of the lands given, or of those taken in exchange, within six months after the death of her husband, and if such election be not made, she shall take her dower of the lands received in exchange.

§ 1908. Where any person seized of lands, as aforesaid, shall have executed a mortgage of such lands before marriage, the widow shall, nevertheless, be entitled to dower out of the lands mortgaged, as against every person except the mortgagee and those claiming under him.

§ 1909. Where a husband shall purchase lands during coverture, and shall at the same time mortgage his estate in such lands to secure the payment of the purchase money, his widow shall not be entitled to dower out of such lands, as against the mortgagee or those claiming under him, although she shall not have united in such mortgage, but she shall be entitled to her dower as against all other persons.

§ 1910. Where in such case the mortgagee or those claiming under him shall, after the death of her husband, cause the land mortgaged to be sold and any surplus shall remain, after the payment of the moneys due on such mortgage, and the costs and charges of the sale, the widow shall be entitled to the interest or income of the one-third part of such surplus, for her life, as her dower.

§ 1911. A widow shall not be endowed of lands conveyed to her husband by way of mortgage, unless he acquired an absolute estate therein during marriage.

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§ 1912. When a widow is entitled to dower in lands of which her husband died seized, she may continue to occupy the same, with the children or other heirs of the deceased, or to receive one-third part of the rents, issues, and profits thereof so long as the heirs do not object thereto, without having her dower assigned.

§ 1913. A widow may remain in the house of her husband sixty days after his death, without being chargeable with rent therefor, and in the meantime she shall have her reasonable sustenance out of his estate.

§ 1914. In case of divorce, dissolving the marriage contract for the misconduct of the wife, she shall not be endowed.

§ 1915. A woman may bar her right of dower, in any estate conveyed by her husband, by joining with him in the deed conveying the same, and therein releasing her claim to dower, or by a separate deed releasing the same, made at the time of the conveyance by her husband, or subsequently, or she may delegate to an attorney in fact other than her husband the power to execute such release, either by general or special power of attorney, and her execution and acknowledgment of the power of attorney may be in the same manner as if she were sole.

§ 1915A. No release of dower duly executed by the attorney in fact of any married woman prior to the passage of this chapter shall be held to be invalid or inoperative merely by reason of its not having been executed by such married woman in person.

§ 1916. A woman may also be barred of her dower in the lands of her husband by a jointure settled on her with her assent before her marriage, provided such jointure consists of an estate in lands, for the life of the wife at least, to take effect immediately on the death of her husband; her assent to such jointure being expressed, if she be of full age, by her becoming a party to the conveyance by which it is settled, and if she be under age, by her joining with her father or guardian in such conveyance.

§ 1917. Any pecuniary provision that shall be made for the benefit of an intended wife, and in lieu of her dower, shall, if assented to as provided in the preceding section, bar her right of dower in all the lands of her husband.

§ 1918. If any such jointure or pecuniary provision in lieu of dower be made before the marriage, and without the assent of the intended wife, or if it be made after marriage, it shall bar her dower, unless she shall within six months after receiving notice of the death of her husband, and of such jointure or pecuniary provision, make her election to waive such jointure or provision, and to be endowed of the lands of her husband.

§ 1919. If any provision be made for a widow in the will of her husband, she shall, within six months after probate of the will, make her election or be endowed of his lands; but she shall not be entitled to both, unless it plainly appears by the will to have been the intention of the testator that she should have such provision in addition to her dower.

NOTE TO CHAPTER 124.

§§ 1906–1914, 1916–1919 are C. L., §§ 1299–1312; 1915–1915A are S. L., 1898, Oct. 13.

Cases in Hawaiian Reports: Re Vida, 1 Haw., 63; Reynolds v. Barnard, 2 Haw., 72; Laanui v. Puohu, 2 Haw., 161; Est. Kamehameha, 2 Haw., 715; Wei See v. Young Sheong, 3 Haw., 489; Jacobs v. Cummings, 4 Haw., 113; Luha v. Holt, 5 Haw., 183; Long v. Pfluger, 6 Haw., 85; Carter v. Carter, 10 Haw., 687.

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CHAPTER 125.

DIVORCE AND SEPARATION.

PART I.—ANNULMENT.

§1920. Any circuit court may, by a sentence of nullity, declare void the marriage contract for either of the following causes, existing at the time of marriage:

1. That the parties were related to each other within the fourth degree of consanguinity.
2. That the parties, or either of them, had not attained the legal age of marriage.
3. That the husband had an undivorced wife living, or the wife had an undivorced husband living.
4. That one of the parties was an idiot or lunatic.
5. That one of the parties was impotent or physically incapable of entering into the marriage state.

§ 1921. A suit to annul a marriage on the ground that one of the parties was under legal age, may be brought by the parent or guardian entitled to the custody of such minor, or by any person admitted by the court to prosecute as the friend of such minor; but in no case shall such marriage be annulled on the application of a party who was of legal age at the time it was contracted; nor when it shall appear that the parties, after they attained the legal age, had for any time freely cohabited as man and wife.

§ 1922. A marriage may be declared null on the ground that one of the parties has an undivorced husband or wife living, on the application of either of the parties during the lifetime of the other, or on the application of such former husband or wife.

§ 1923. Every woman who shall be deceived into contracting an illegal marriage with a man having another wife living, under the belief that he was an unmarried man, shall be entitled to a just allowance for the support of herself and family out of his property, which she may obtain upon application to any judge of a court of record at chambers; provided, always, that such allowance shall not exceed one-third his real and personal estate.

§ 1924. The children of such illegal marriage shall be entitled to succeed in the same manner as legitimate children to all the real and personal estate of both parents in this Territory.

§ 1925. The marriage of an idiot or insane person may be annulled on the application of the sane party, or any relative of the idiot or lunatic, or on application of any person admitted by the court to prosecute as the next friend of the said idiot or lunatic, or upon the application of the lunatic himself after restoration to reason; but in such case no sentence of nullity shall be pronounced if it shall appear that the parties freely cohabited as husband and wife after the lunatic was restored to a sound mind.

§ 1926. Upon the annulment of a marriage on account of nonage, insanity, or idiocy of either party, the issue of the marriage shall be deemed to be in all respects the legitimate issue of the parent who, at the time of the marriage, was capable of contracting.

§ 1927. Upon the annulment of a marriage that is prohibited on account of consanguinity between the parties, the issue of the marriage shall be illegitimate.

§ 1928. A suit to annul the marriage on the ground of the physical incapacity of one of the parties at the time of marriage, shall only be

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maintained by the injured party against the party whose incapacity is alleged; and shall in all cases be brought within two years from the solemnization of the marriage.

§1929. No sentence of nullity of marriage shall be pronounced solely on the declarations or confessions of the parties, but the court shall, in all cases, require other satisfactory evidence of the facts on which the allegation of nullity is founded.

PART II.—DIVORCE.

§1930. Divorces from the bond of matrimony shall be granted for the causes hereinafter set forth, and no other.

First. For adultery in either party, or for willful and utter desertion for the term of three years, or when either party is sentenced to imprisonment for life, or for seven years or more, and no pardon granted to a party so sentenced, after divorce for such a cause, shall restore such party to conjugal rights; and when it is shown to the satisfaction of the court that either party has contracted the disease known as Chinese leprosy, and is incapable of cure.

Second. For extreme cruelty, habitual intemperance, or when the husband being of sufficient ability to provide suitable maintenance for his wife, neglects or refuses to do so. But if the party applying for a divorce shall not insist upon a divorce from the bond of matrimony, a divorce only from bed and board shall be granted, and the relations of the parties after such divorce shall be regulated by existing laws concerning separation.

§1931. Exclusive jurisdiction in matters of divorce is conferred upon the circuit courts of the judicial circuit in which the parties shall have last lived together as husband and wife. But all such cases shall be regularly entered on the calendar like other civil actions. No such case shall be heard at chambers, and no consent of parties shall warrant the courts in hearing divorce causes, or any matter connected therewith, except during regular sessions in the public court rooms. No divorce shall be granted for any cause if the parties have not lived together as husband and wife within this Territory.

§1932. All proceedings for divorce shall be commenced by libel, to be signed by the libellant, and sworn to, and the same shall set forth the marriage of the parties and the cause of divorce with sufficient particularity to constitute a case for judicial action. Such libels shall be filed in the office of the clerk of the proper court, and upon filing thereof, a writ of summons, with a certified copy of the libel attached, shall be issued returnable at the term of the court next after the day of filing the same. Such process shall be served by delivering the same personally to the respondent; and the court shall not entertain jurisdiction of such libel, unless by consent of the respondent, unless such personal service shall have been completed more than twenty days before the first day of the term, to which the same shall be returnable, except as provided in the following section.

§1933. If personal service shall not have been made as aforesaid, and it appears by return of the officer, that after diligent search the respondent can not be found, the court, at the return term, shall order that the case stand continued until the next succeeding term, and that in the meanwhile an attested copy of the summons shall be printed in the Government Gazette and Ke Au Okoa at least six times, the last publication to be at least twenty days before the next term of the court, and the court shall direct such further and other notice to be given as the circumstances of the case may require.

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§ 1934. Upon the hearing of every libel for divorce the court shall require exact legal proof upon every point, notwithstanding the consent of parties; and the admission of the respondent shall not be competent evidence, except to prove the original marriage.

§ 1935. No divorce for the cause of adultery shall be granted: *First.* Where there is reasonable cause to believe that the offense has been committed by the procurement or with the connivance of the libellant. *Second.* Where the offense charged has been forgiven by the injured party. Such forgiveness may be shown by express proof, or by the voluntary cohabitation of the parties, with knowledge of the fact. *Third.* Where the libel was not filed within one year after discovery by the libellant of the offense charged. *Fourth.* Where there is reasonable cause to believe that the libellant has been guilty of any act which would entitle the defendant, if innocent, to a divorce.

The fourth ground for refusing a decree above mentioned shall not be applied to an application for a divorce for any other cause than that of adultery, nor shall any allegation with reference to such cause be necessary in the libel.

§ 1936. If there be any reason to suspect collusion, or that important testimony can be procured which has not been produced, it shall be the duty of the court to continue the cause till the next term, and so from term to term, while such reason for suspicion continues, and the attorney-general and parties not of record shall be heard, to establish the fact of collusion or the existence of testimony not produced.

§ 1937. If, after a full hearing, the court shall be of opinion that a divorce ought to be granted, either from the bonds of matrimony or from bed and board, an absolute decree shall be entered.

§ 1938. Whenever it shall be made to appear to the court, after the filing of any libel, that the wife is under restraint or in destitute circumstances, the court may pass such order to secure her personal liberty and reasonable support, pending the libel, as law and justice may require, and may enforce such orders by summary process. The court may also compel the husband to advance reasonable amounts for the compensation of witnesses and other reasonable expenses of trial to be incurred by the wife.

§ 1939. The several judges of the circuit courts at chambers, after the filing of any libel for divorce, may pass the orders authorized by section 1938, and such orders may be revised and amended from time to time by said courts, or any judge thereof.

§ 1940. Any party aggrieved by any order or decision of the circuit court may except thereto, and his exceptions shall be duly noted and certified to the supreme court, and no order or decree for a divorce shall be made absolute until such exceptions shall have been disposed of. Said exceptions shall be argued and determined in the supreme court, and if the court shall be of opinion that the order or decision excepted to in said circuit court was erroneous, they shall so certify, and thereupon the case shall be heard anew.

§ 1941. A divorce for the cause of adultery committed by the husband shall not affect the legitimacy of the issue of the marriage.

§ 1942. A divorce for the cause of adultery committed by the wife shall not affect the legitimacy of the issue of the marriage, but the legitimacy of such children, if questioned, shall be tried and determined by the court. In every such case the legitimacy of such children shall be presumed until the contrary be shown.

§ 1943. Upon granting a divorce for the adultery or other offense amounting thereto of the husband, the court may make such further

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decree or order against the defendant, compelling him to provide for the maintenance of the children of the marriage, and to provide such suitable allowance for the wife, for her support, as the court shall deem just and reasonable, having regard to the ability of the husband, the character and situation of the parties, and all other circumstances of the case.

§1944. Upon annulling a marriage, or decreeing a divorce, the court may make such further decree as it shall deem expedient, concerning the care, custody, education, and maintenance of the minor children of the parties, and determine with which of the parents the children or any of them shall remain; and the court may from time to time afterwards, on the petition of either of the parties, revise and alter such decree concerning the children, and make a new decree concerning the same, as the circumstances of the parents and the benefit of the children may require.

§1945. When a divorce is decreed for the adultery, or other offense amounting thereto, of the husband, and the wife shall be the owner of real estate, or have in her possession any personal property given to her by her husband, acquired by her own industry, given her by devise or otherwise, or to which she may be entitled by the decease of any relative, all such real and personal property shall be her sole and absolute property.

§1946. A wife divorced for adultery or other offense amounting thereto, shall not be entitled to dower in her husband's real estate, or any part thereof, nor to any share of his personal estate.

§1947. Whenever the court shall make an order or decree requiring a husband to provide for the care, maintenance, and education of his children, or for an allowance to his wife, the court may require him to give reasonable security for such maintenance and allowance; and upon neglect or refusal to give such security, or upon default of him and his surety to provide such maintenance and allowance, the court may sequester his personal estate, and the rents and profits of his real estate, and may appoint a receiver thereof, and cause such personal estate and the rents and profits of such real estate to be applied toward such maintenance and allowance, as to the court shall from time to time seem just and reasonable.

§1948. Whenever a marriage shall be dissolved for adultery or other offense amounting thereto, either party to the divorce may marry again at any time.

§1949. Upon the application of any divorced person to any officer authorized to grant marriage licenses for a license to marry again, such officer shall, before granting such person a license to marry, require to be produced before him the original certificate of such person's divorce, or a duly certified copy thereof, under the seal of the court in which the divorce was decreed.

PART III.—SEPARATION.

§1950. A separation from bed and board forever, or for a limited time, may be decreed by any circuit court for the following causes:

1. For excessive and habitual ill-treatment of the one party by the other.
2. For habitual drunkenness of either party.
3. For the refusal or neglect of the husband to provide his wife with the necessaries of life.

§1951. In any suit brought for a separation, the defendant shall be permitted to prove, in his justification, the ill conduct of the complain-

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ant, and on establishing such defense, to the satisfaction of the court, the suit may be dismissed.

§1952. Upon decreeing a separation, the court may make such further decree for the support and maintenance of the wife and her children, by the husband, or out of his property, as may appear just and proper.

§1953. Whenever a decree of separation is granted, the decree shall have the effect, during such separation, to reinstate the wife, whether the wrongdoer or not, in the right to sue or be sued, to alienate and convey property, to make contracts, and to do all other acts as if she were a femme sole.

§1954. Where a decree for a separation forever, or for a limited period, shall have been pronounced, it may be revoked at any time thereafter, under such regulations and restrictions as the court may impose, upon the joint application of the parties and upon their producing satisfactory evidence of their reconciliation.

§1955. Upon the hearing of any petition for a divorce or separation, the court shall have power, in its discretion, to examine either or both of the parties, upon oath, in order to prevent collusion.

NOTE TO CHAPTER 125.

§§1920–1929 are C. L. §§1313–1322; §§1930–1938 are S. L. 1870, ch. 16, C. L. p. 434. This act was repealed by S. L. 1874, ch. 51, but the repealing statute was held unconstitutional and void in Marchant v. Marchant, 3 Haw., 661, and this statute subsequently amended. §1939 is S. L. 1872, ch. 18, C. L. p. 436; §1940 is S. L. 1870, ch. 16, C. L. p. 436; §§1941–1945 are C. L. §§1326–1330; §§1946–1947 are C. L. §§1332–1333; §§1948–1949 are S. L. 1866, reenacted S. L. 1874, ch. 51, C. L. p. 439; §§1950–1955 are C. L. §§1336–1341.

Penalty for cohabiting of divorced persons, see Penal Laws, §98.

Cases in Hawaiian Reports: Kalua v. Kamaua, 4 Haw., 58; Briggs v. Briggs, 4 Haw., 448; Hana v. Mehekula, 4 Haw., 447; Mitchell v. Mitchell, 5 Haw., 161; Coleman v. Coleman, 5 Haw., 302; Estate Gordon, 6 Haw., 289; Re Fortado, 7 Haw., 219; Opiopio v. Kane, 7 Haw., 342; Kailiahi v. Kepau, 8 Haw., 87; Southerland v. Southerland, 8 Haw., 408; Puuku v. Kalelehu, 8 Haw., 79; McGrew v. McGrew, 9 Haw., 487; Lazarus v. Lazarus, 9 Haw., 350; Carter v. Mutual Co., 10 Haw., 117; Trousseau v. Cartwright, 10 Haw., 138; Laing v. Laing, 10 Haw., 183; Carter v. Mutual Co., 10 Haw., 562; Trousseau v. Cartwright, 10 Haw., 614.

CHAPTER 126.

GUARDIANS AND WARDS.

§1956. Any circuit judge of this Territory may, when it shall appear to him necessary or convenient, appoint guardians to minors and others, being inhabitants of or residents in the circuit in which he is a judge.

§1957. If the minor is under the age of thirteen years, the judge of probate may nominate and appoint his guardian, and if he is above the age of thirteen years, he may nominate his own guardian, who, if approved of by the judge, shall be appointed accordingly; and if the guardian nominated by such minor shall not be approved by the judge, or if the minor shall reside without the Territory, or if, after being cited by the judge, he shall neglect to nominate a suitable person, the judge may nominate and appoint the guardian in the same manner as if the minor were under the age of thirteen years.

§1958. Every guardian appointed as aforesaid shall have the custody and tuition of the minor and the care and management of his estate, and shall continue in office until the minor shall arrive at the age of twenty years, or until the guardian shall be discharged according to law: Provided, however, That the father of the minor, if living, and in case of his death, the mother, while she remains unmarried, being

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themselves respectively competent to transact their own business, shall be entitled to the custody of the person of the minor and to the care of his education.

§ 1959. Every such guardian shall give a bond, with surety or sureties, to the judge of probate, in such sum as the judge shall order, with conditions as follows:

First. To make a true inventory of all the real estate and all the goods, chattels, rights, and credits of the ward that shall come to his possession or knowledge, and to return the same into the probate court at such times as the judge shall order.

Secondly. To dispose of and manage all such estate and effects according to law and for the best interest of the ward, and faithfully to discharge his trust in relation thereto, and also in relation to the custody, education, and maintenance of the ward.

Thirdly. To render an account, on oath, of the property in his hands, including the proceeds of all real estate sold by him, and of the management and disposition of all such property, within one year after his appointment, and at such other times as the judge of probate shall direct.

Fourthly. At the expiration of his trust to settle his accounts with the judge of probate, or with the ward or his legal representatives, and to pay over and deliver all the estate and effects remaining in his hands, or due from him on such settlement, to the person or persons who shall be lawfully entitled thereto.

§ 1960. Every father may, by his last will in writing, appoint a guardian or guardians for any of his children, whether born at the time of making the will or afterwards, to continue during the minority of the child, or for any less time, and every such testamentary guardian shall have the same powers and shall perform the same duties, with regard to the person and estate of the ward, as a guardian appointed by the judge of probate.

§ 1961. Every such testamentary guardian shall give a bond in like manner, and with like condition, as is before required of a guardian appointed by the judge of probate, provided that when the testator in the will appointing the guardian shall have ordered or requested that such bond shall not be given, the bond shall not be required, unless, from a change in the situation or circumstances of the guardian, or for other sufficient cause, the judge of probate shall think proper to require it.

§ 1962. Nothing contained in this chapter shall impair or affect the power of any judge of the supreme court or circuit court to appoint a guardian to defend the interests of any minor impleaded in such court, or interested in any suit or matter there pending, nor their power to appoint or allow any person as next friend for a minor to commence, prosecute, or defend any suit in his behalf.

§ 1963. When the relations or friends of any insane person shall apply to any of the judges hereinbefore mentioned to have a guardian appointed for him, the judge shall cause notice to be given to the supposed insane person of the time and place appointed for hearing the case, not less than fourteen days before the time so appointed; and if, after a full hearing, it shall appear to the judge that the person in question is incapable of taking care of himself, the judge shall appoint a guardian of his person and estate, with the powers and duties hereinafter specified.

§ 1964. Every guardian so appointed for an insane person shall have the care and custody of the person of the ward, and management of all

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his estate, until the guardian shall be legally discharged; and he shall give a bond to the judge appointing him, in like manner and with the like condition as is before prescribed with respect to the guardian of a minor, excepting that the provision relating to the education of the ward shall be omitted in the condition of the bond.

§ 1965. When any person, by excessive drinking, gaming, idleness, or debauchery of any kind, shall so spend, waste, or lessen his estate as to expose himself or his family to want or suffering, his friends or relations may present a complaint to any of the judges hereinbefore mentioned, setting forth the facts and circumstances of the case, and praying to have a guardian appointed for him.

§ 1966. The judge shall cause notice to be given to such supposed spendthrift of the time and place appointed for hearing the case, not less than fourteen days before the time so appointed; and if after a full hearing it shall appear to the judge that the person complained of comes within the description contained in section 1965, he shall appoint a guardian of his person and estate, with the powers and duties hereinafter specified.

§ 1967. After the order of notice has been issued, the complainants may cause a copy of the complaint, with the order of notice, to be filed in the office of the registrar of conveyances, and if a guardian shall be appointed upon such application, all contracts, excepting for necessaries, and all gifts, sales, or transfers of real or personal estate made by such spendthrift after such filing of the complaint in the registry of conveyances and before the termination of the guardianship shall be null and void.

§ 1968. When a guardian shall be appointed for an insane person or spendthrift, the judge shall make an allowance to be paid by the guardian for all reasonable expenses incurred by the ward in defending himself against the complaint.

§ 1969. Every guardian so appointed for a spendthrift shall have the care and custody of the person of the ward and the management of all his estate until the guardian shall be legally discharged, and he shall give bond to the judge appointing him in like manner and with the like condition as is before directed with respect to the guardian of an insane person.

§ 1970. Every guardian appointed under the provisions of this chapter, whether for a minor or any other person, shall pay all just debts due from the ward out of his personal estate, if sufficient, and if not, out of his real estate, upon obtaining a license for the sale thereof, as hereinafter provided; he shall also settle the accounts of the ward, and demand, sue for, and receive all debts due to him, or may, with the approbation of any of the judges hereinbefore specified, compound for the same and give a discharge to the debtor upon receiving a fair and just dividend of his estate and effects; and he shall appear for and represent his ward in all legal suits and proceedings, unless where another person is appointed for that purpose as guardian or next friend.

§ 1971. The guardian shall also manage the estate of the ward frugally and without waste, and apply the income and profits thereof, so far as may be necessary, for the comfortable and suitable maintenance and support of the ward and his family, if there be any; and if the income and profits shall be insufficient for that purpose the guardian may sell the real estate upon obtaining a license therefor as provided by law, and shall apply the proceeds of such sale, so far as may be necessary, for the maintenance and support of the ward and his family.

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§ 1972. The guardian may join in and assent to a partition of the real estate of the ward, either upon a petition for partition or otherwise; and he may assign and set out dower in the said estate to any widow entitled thereto, and may appoint an appraiser of real estate on any execution, either against or in favor of his ward.

§ 1973. Upon the taking of any inventory required by this chapter, the estate and effects comprised therein shall, if the judge deem it necessary, be appraised by from one to three suitable persons, to be appointed and sworn by the judge, and every guardian shall account for and dispose of the personal estate of the ward as directed by the judge.

§ 1974. When any guardian appointed either by a testator or by any of the judges hereinbefore mentioned shall become insane or otherwise incapable of discharging his trust, or evidently unsuitable therefor, any of said judges, after notice to such guardian and to all others interested, may remove him; and every guardian may, upon his request, be allowed to resign his trust when it shall appear to the judge proper to allow the same; and upon every such resignation or removal, and also upon the death of any guardian, the judge of probate may appoint another in his stead.

§ 1975. The marriage of any female who is under guardianship as a minor shall operate as a legal discharge to her guardian; and the guardian of any insane person or spendthrift may be discharged by any judge of probate when it shall appear to him, on the application of the ward or otherwise, that such guardianship is no longer necessary.

§ 1976. Any court of probate may require a new bond to be given by any guardian, and may discharge the existing sureties from future responsibility whenever such court may deem it proper so to do.

§ 1977. Any bond given by a guardian may be put in suit by order of a judge of probate for the use and benefit of the ward, or of any person interested in his estate.

§ 1978. No action shall be maintained against the sureties in any bond given by a guardian, unless it be commenced within four years from the time when the guardian shall be discharged, provided that if at the time of such discharge the person entitled to bring such action shall be out of the Territory, the action may be commenced at any time within four years after his return to the Territory.

§ 1979. Upon complaint made to a judge of probate by any guardian, or by the ward, or by any creditor or other person interested in the estate, or by any persons having claims thereto in expectancy as heir or otherwise against anyone suspected of having concealed, embezzled, or conveyed away any of the money, goods, or effects of the ward, the judge may cite and examine such suspected person, and proceed with him as to such charge in the same manner as with persons suspected of concealing or embezzling the effects of a deceased testator or intestate.

§ 1980. When any minor, or other person liable to be put under guardianship, according to the provisions of this chapter, shall reside without this Territory, and shall have any estate therein, any friend of such person, or anyone interested in his estate in expectancy or otherwise, may apply to any judge of the supreme court of law and equity, and after notice to all persons interested, to be given in such a manner as the judge shall order, and after a full hearing and examination, if it shall appear to him proper, he may appoint a guardian for such absent person.

§ 1981. Every guardian appointed according to the provisions of the last preceding section shall have the same powers and duties with

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respect to any estate of the ward that shall be found within the Territory, and also with respect to the person of the ward, if he shall come to reside therein, as are prescribed with respect to any other guardian appointed under this chapter.

§ 1982. Every such guardian shall give bond to the judge appointing him, in like manner and with the like conditions, as is above provided with respect to other guardians; excepting that the provisions respecting the inventory, the disposal of the estate and effects, and the account to be rendered by the guardians, shall be confined to such estate and effects as shall come to his hands in this Territory, and that the provisions respecting the custody of the ward shall not be applicable unless the ward shall come to reside within this Territory.

§ 1983. Every guardian shall be allowed the amount of all his reasonable expenses incurred in the execution of his trust, and he shall also have such compensation for his services as the court in which his accounts are settled shall consider to be just and reasonable.

§ 1984. When an account is rendered by two or more joint guardians, the court may, in its discretion, allow the same, upon the oath of any one of them.

§ 1985. The words "insane person" are intended to include every idiot, non compos, lunatic, and distracted person, and the word "spendthrift" is intended to include every one who is liable to be put under guardianship on account of excessive drinking, gaming, idleness, or debauchery; and these words shall be so construed in all the provisions relating to guardians and wards contained in this or any other statute.

SALE OF REAL ESTATE.

§ 1986. When the income of the estate of any person under guardianship, whether as a minor, insane person, or spendthrift, shall be insufficient to maintain the ward and his family, his guardian may sell his real estate for that purpose, upon obtaining a license therefor, and proceeding therein in the manner hereinafter provided.

§ 1987. When it shall appear, upon the representation of any such guardian, that it would be for the benefit of his ward that his real estate, or any part thereof, should be sold, and the proceeds thereof be put on interest, or invested in some productive stock, his guardian may sell the same accordingly, upon obtaining a license therefor, and proceeding therein as hereinafter provided.

§ 1988. If the estate is sold for the maintenance of the ward and his family, as provided in section 1971, the guardian shall apply the proceeds of the sale to that purpose, as far as necessary, and shall put out the residue, if any, on interest, or invest it in the best manner in his power, until the capital shall be wanted for the maintenance of the ward and his family, in which case the capital may be used for that purpose, as far as may be necessary, in like manner as if it had been personal estate of the ward.

§ 1989. If the estate is sold, in order to put out and invest the proceeds, as provided in section 1987, the guardian shall make the investment according to his best judgment, or in pursuance of any order that may be made relating thereto by the court granting him the license to sell.

§ 1990. In every case of the sale of real estate, as provided in this chapter, the residue of the proceeds, if any, remaining upon the final settlement of the accounts of the guardianship, shall be considered as real estate of the ward, and shall be disposed of among the same per-

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sons and in the same proportions as the real estate would have been if it had not been sold.

§ 1991. Such license, in either of the cases aforesaid, may be granted by any circuit judge of the island in which the estate intended to be sold lies.

§ 1992. In order to obtain such license, the guardian shall present to the court a petition, setting forth the condition of the estate, and the facts and circumstances on which the petition is founded, tending to show the necessity or expediency of a sale; and, if after a full examination, on the oath of the petitioner, or otherwise, it shall appear to the court either that it is necessary or that it would be for the benefit of the ward that the real estate or any part of it should be sold, the court may grant a license therefor, specifying therein whether the sale is to be made for the maintenance of the ward and his family or in order that the proceeds may be put out and invested, as aforesaid.

§ 1993. No such license shall be granted until notice by public advertisement or otherwise, as the court shall order, shall have been given to the next of kin to the ward, and to all persons interested in the estate, to appear and show cause why the same should not be granted.

§ 1994. Every guardian licensed to sell real estate as aforesaid shall, before the sale, give bond to the judge granting the license, with sufficient surety or sureties, with condition to sell the same in the manner prescribed by the judge, and to account for and dispose of the proceeds of the sale in the manner provided by law.

§ 1995. Such guardian shall also, before fixing on the time and place of sale, take and subscribe an oath in substance as follows: That in disposing of the estate which he is licensed to sell, he will use his best judgment in fixing on the time and place of sale, and that he will exert his utmost endeavors to dispose of the same in such manner as will be most for the advantage of all persons interested therein.

§ 1996. He shall also give public notice of time and place of sale, by causing notifications thereof to be posted up in the most public places on the island where the estate to be sold is, and if it be on the island of Oahu, he shall also cause a notice of such sale to be published in such newspaper as the judge of probate shall order, at least fourteen days previous to the day of sale. And upon return sales shall obtain from the judge of probate an order of confirmation of such sales before making conveyances thereof.

§ 1997. A copy of such notification certified by the oath of the guardian, or of the person employed by him to give such notice, being made before any judge of probate, and filed in his office, within one year after the sale, shall be admitted as evidence of the time, place, and manner of giving notice.

§ 1998. No license granted in pursuance of this chapter shall be in force for more than one year after the time of granting the same.

§ 1999. When any minor, insane person, or spendthrift, residing without the Territory, shall be put under guardianship in the country in which he resides, and shall have no guardian appointed in this Territory, the foreign guardian may file an authenticated copy of his appointment in the circuit court, after which he may be licensed by any judge of the said court, to sell the real estate of the ward, in any part of this Territory, in the same manner and on the same terms and conditions as are prescribed in this chapter, in the case of a guardian appointed in this Territory, excepting in the particulars hereinafter mentioned.

§ 2000. Every foreign guardian so licensed to sell real estate, shall take and subscribe the oath required in like case of guardians appointed

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in this Territory, and shall give notice of the time and place of sale, and conduct the same in the manner prescribed for guardians appointed here, and may perpetuate the evidence of the notice in the same manner.

§ 2001. All the proceedings required to be had in any probate court in this Territory, respecting such sale by a foreign guardian, shall be had in the circuit court.

§ 2002. Upon every such sale by a foreign guardian, the proceeds of the sale, or as much thereof as may remain upon the final settlement of the guardianship, shall be considered as real estate of the ward, and shall be disposed of among the same persons as the real estate would have been according to the laws of this Territory, if it had not been sold; and the foreign guardian shall in every case, before making the sale, give bond, with sufficient surety or sureties, to the judge granting the license to sell, with condition to account for and dispose of the same accordingly.

§ 2003. If any person shall appear and object to the granting of any license prayed for under the provisions of this chapter, and if it shall appear to the court or judge that either the petition or the objection thereto is unreasonable, they may in their discretion award costs for the party prevailing in the case.

§ 2004. No action for the recovery of any estate sold by a guardian under the provisions of this chapter shall be maintained by the ward, or by any person claiming under him, unless it be commenced within five years next after the termination of the guardianship; and no entry shall be made, unless by judgment of law, upon any lands sold as aforesaid with a view to avoid the sale after the expiration of the said five years; excepting only that persons out of the Territory, and minors and others under any legal disability to sue at the time when the right of action or of entry shall first accrue, may commence their action or make their entry at any time within five years after the removal of the disability or after their return to this Territory.

§ 2005. In case of an action relating to any estate sold by a guardian, under the provisions of this chapter, in which the ward, or any person claiming under him, shall contest the validity of the sale, the same shall not be avoided on account of any irregularity in the proceedings, provided it shall appear—

First. That the guardian was licensed to make the sale by a judge of competent jurisdiction.

Secondly. That he gave a bond, which was approved by the judge of probate, in case any bond were required by the court upon granting the license.

Thirdly. That he took the oath prescribed in this chapter.

Fourthly. That he gave notice of the time and place of the sale, as prescribed herein.

Fifthly. That the premises were sold accordingly by public auction, and are held by one who purchased them in good faith.

§ 2006. If in relation to such sale there should be any neglect or misconduct in the proceedings of the guardian by which any person interested in the estate shall suffer damage, such aggrieved party may recover compensation therefor in a suit on the guardianship bond, or otherwise, as the case may require.

§ 2007. If the validity of any sale made by a guardian under the provisions of this chapter shall be drawn in question by any person claiming adversely to the title of the ward, or claiming under any title that is not derived from or through the ward, the sale shall not be held void on account of any irregularity in the proceedings, provided it shall

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appear that the guardian was licensed to make the sale by a judge of competent jurisdiction, and that he did accordingly execute and acknowledge, in legal form, a deed for the conveyance of the premises.

§ 2008. All sales, exchanges, transfers, gifts, and conveyances of any estate or portion of an estate of any ward of this Territory which may have been made by any guardian of such ward previous to the fourth day of August, A. D. 1851, shall be and the same are hereby confirmed as legal and valid.

NOTE TO CHAPTER 126.

§§ 1956–2008 are C. L., §§ 1343–1395.

Cases in Hawaiian Reports: Lishman v. Perry, 7 Haw., 267; Meek v. Aswan, 7 Haw., 751; Guardianship McGrew, 9 Haw., 427; McGrew v. McGrew, 9 Haw., 480.

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TITLE X.

MISCELLANEOUS LAWS.

CHAPTER 127.

CORPORATIONS.

§ 2009. Every corporation created or to be created in this Territory shall have power: 1st, to have succession by its corporate name for the period limited in its charter, and when no period is limited, perpetually; 2nd, to sue and be sued in any court; 3rd, to make and use a common seal, and alter the same at its pleasure; 4th, to hold, purchase, and convey such real and personal estate, and no other, not exceeding the amount limited by its charter, as the purposes of the corporation shall require; 5th, to appoint such subordinate officers and agents as the business of the corporation shall require; 6th, to make by-laws not inconsistent with any existing law, for the management of its property, the election and removal of its officers, the regulation of its affairs, and the transfer of its stock.

§ 2010. In addition to the powers enumerated in the preceding section, no corporation created under the provisions of this chapter shall possess or exercise any corporate powers, except such as shall be necessary to the exercise of the powers so enumerated, and of such subordinate powers as shall be expressly given in the charter granted as hereinafter provided.

§ 2011. No corporation shall be deemed to possess the power of discounting bills, notes, or other evidences of debt, or receiving deposits, or buying gold, silver, bullion, or foreign coin, buying and selling exchange, or issuing notes or other evidences of debt, except so far as the exigencies of the particular business for which it was incorporated shall require. Nor shall any corporation, unless authorized by express enactment of the legislature, issue bills or other evidences of debt for circulation as money.

§ 2012. At any meeting of any corporation it shall be lawful for the members, in the transaction of business, to vote, either in person or by proxy: Provided, That nothing in this section shall be construed to restrain the power of every corporation to prescribe by its by-laws the mode of voting at meetings of its trustees, directors, or board of managers.

§ 2013. When all the members of any corporation shall be present, either in person or by proxy, at any meeting, however called or notified, and shall sign a written consent thereto, on the record of such meeting, the doings of such meeting shall be valid.

§ 2014. The members of such corporation so assembled may elect officers to fill all vacancies then existing, and may act upon such other business as might lawfully be transacted at regular meetings of the corporation.

§ 2015. Whenever, by reason of the death, absence, or other legal impediment of the officers of any corporation, there shall be no person

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duly authorized to call or preside at a legal meeting thereof, any circuit judge of the island where such corporation is established may, on written application of four or more of the members thereof, issue an order to either of the said members, directing him to call a meeting of the corporation, by giving such notice as shall be required by the by-laws of the corporation, and the said judge may, in the same order, direct one of the said members to preside at the meeting, and the proceedings of such meeting shall be valid.

§ 2016. Whenever the capital stock of any corporation is divided into shares, and the certificates thereof are issued, transfer of the shares may be made by endorsement and delivery of the certificate. The endorsee shall be entitled to a new certificate upon surrendering the old one. And no such transfer shall be valid, except between the parties thereto, until such new certificate shall have been obtained, or the transfer shall have been recorded on the books of the corporation, so as to show the date of the transfer, the parties thereto, their place of abode, and the number and description of the shares transferred.

§ 2017. The directors or managers of any incorporated company shall not make dividends, except from the profits arising from the business of the corporation, nor may they divide, withdraw, or in any way pay away to the stockholders, or to any of them, any part of the capital stock of the company, or reduce the said capital stock, without the consent either of the power granting the charter or of the legislature. In case of any violation of the provisions of this section, the trustees, managers, or directors, under whose administration the same may have taken place, shall, in their individual and private capacities, be jointly and severally liable to the corporation and creditors thereof, in the event of its dissolution, to the full amount so divided, withdrawn, paid out, or reduced: Provided, That nothing in this section contained shall prevent a distribution and division of the balance of the capital stock remaining after payment of all its debts, or dissolution of the company, or expiration of its charter.

§ 2018. Where the whole capital of a corporation shall not have been paid in, and the capital paid shall be insufficient to satisfy the claims of its creditors, each stockholder shall be bound to pay on each share held by him the sum necessary to complete the amount of such share as fixed by the charter of the company, or such proportion of that sum as shall be required to satisfy the debts of the company.

§ 2019. All the property of any corporation which may be created in virtue of this chapter shall be liable for the just debts thereof, but no stockholder shall be liable for the debts of the corporation beyond the amount of what may be due upon the share or shares held or owned by him.

§ 2020. The amount of debts which any corporation shall owe shall at no time exceed the amount of its capital stock.

§ 2021. In every joint-stock company incorporated under the provisions of this chapter it shall be the duty of the trustees, as managers or directors of such company, to cause a book to be kept for registering the names of all persons who are, or shall become, stockholders of the corporation, and showing the number of shares of stock held by them respectively, and the time when they respectively became the owners of such shares, which book, during the usual business hours of the day on every day except Sundays and national holidays, shall be open for the inspection of the stockholders and creditors, and it shall be the duty of the clerk, or the person having the charge thereof, to give a certified transcript of anything therein contained to any stockholder or

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creditor of the corporation applying therefor. Such transcript shall be legal evidence of the facts therein set forth in any suit by or against the corporation.

§ 2022. Any corporation wishing to dissolve and disincorporate itself before the expiration of its charter may present a petition to the treasurer, together with a certificate setting forth that at a meeting of the stockholders, or members called for that purpose, it was decided, by a vote of three-fourths of the members or stockholders, to dissolve and disincorporate the corporation, which certificate shall be signed by the presiding officer and secretary of such meeting. The treasurer shall enter such petition and certificate of record in his office, and after sixty days' notice, by publication in Hawaiian and English, in such manner as he shall deem most effectual, shall proceed to consider the same, and when satisfied that the vote certified has been truly taken, and that all claims against the corporation are discharged, shall declare such corporation dissolved.

§ 2023. Upon the annulment of the charter of any corporation, or upon its dissolution by expiration of its charter, or otherwise, unless other persons shall be appointed by the legislature, the treasurer, or by some court of competent authority, the directors or managers of the corporation, by whatever name known in law, shall be trustees for the creditors and stockholders, with full powers to settle the affairs of the corporation. Under the name of trustees of such corporation they may, by suit or otherwise, collect and pay the outstanding debts and divide among the stockholders the moneys and other properties that shall remain after payment of the debts and necessary expenses. And they shall be jointly and severally liable to the creditors and to the stockholders to the extent of the corporation property which shall come into their hands.

§ 2024. Every corporation not eleemosynary, religious, literary, or educational shall annually present a full and accurate exhibit of the state of its affairs to the treasurer, at such times as the treasurer shall direct. The said treasurer shall have power, either himself, or by one or more commissioners appointed by him, to call for the production of the books and papers of the corporation, and to examine its officers, members, and others touching its affairs, under oath. The annual reports above mentioned, and the result of such examination, the treasurer may in his discretion lay before the governor, and also publish. In case any such corporation shall refuse to produce its books and papers upon the request of the treasurer or the commissioners appointed by him, or in case any of the officers or members of such corporation shall refuse to be examined on oath touching the affairs of the corporation, then the treasurer or the commissioners may apply to a court of equity for an order to compel the production of the books and papers, or the examination of such officers or members of the corporation, obedience to which order may be enforced by said court in like manner with its ordinary decrees and orders.

§ 2025. The treasurer, subject to the provisions and conditions of this chapter, and by and with the consent of the governor, shall grant to all applicants who shall file petitions in conformity with the provisions of this chapter, charters of incorporation for agricultural, commercial, and manufacturing purposes, and for cemetery associations, as well as to charter other incorporations, either aggregate or sole, ecclesiastical or lay, banking and municipal corporations alone excepted, which shall be chartered only by the legislature.

§ 2026. The treasurer shall also have power on the expiration of any

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charter to renew the same, on application to him for that purpose by two-thirds of the stockholders of such company and a satisfactory explanation to him of the state of its affairs.

§ 2027. Nothing in this chapter contained shall be construed to authorize the treasurer, as before provided, without the authority of the legislature, to grant any charter which shall in terms institute a monopoly for a longer term than five years, of any business or occupation; nor may he grant perpetual charters without such authority to any corporations, except to those for eleemosynary, literary, educational, or ecclesiastical purposes, or for cemetery associations.

§ 2028. Application to the treasurer for any charter of incorporation shall be made by written petition, accompanied by proofs that three-fourths of the shares have been subscribed for, and in the case of joint-stock companies there shall, in addition to such petition, be also filed at at the same time in the office of the treasurer a certificate setting forth the location of the proposed company; the object of the incorporation, the amount of stock proposed, and if the privilege of subsequent extension of the capital stock is asked for, the limit of that extension, the proposed duration of the company; the time within which it is to organize; whether the liability of stockholders is proposed to be limited to the amount of their stock, or otherwise; and also whether the whole or any part of the capital stock is to be paid in before commencing operations, and if part, what part: Provided, That if any petition for a charter of incorporation presented to the treasurer shall not be in conformity with the requirements of this section the treasurer shall, within ten days, return the same to the petitioner, specifying wherein the same fails to conform with the said section, and the petitioner may thereupon amend the said petition and present the same so amended. The treasurer shall thereupon present the petition and accompanying proofs to the governor.

§ 2029. The treasurer is hereby authorized to exercise all the power and authority vested in him or in him by and with the consent of the King in privy council, prior to the seventh day of July, A. D. 1887, relating to charters of incorporation: Provided, however, That no charter of incorporation shall be granted by said treasurer without the consent of the governor.

§ 2030. The shares of the several members in the stock of any incorporated company, whether owning real estate or otherwise, shall be deemed in law personal property.

NOTE TO CHAPTER 127.

§§ 2009–2024 are C. L. §§ 1426–1441. § 2025 is S. L. 1884, Ch. 16. §§ 2026–2027 are C. L. §§1443–1444. § 2028 is S. L. 1884, Ch. 16. § 2029 is S. L. 1887, Ch. 13. § 2030 is C. L. §1446

Cases in Hawaiian Reports: Grieve v. Gulick, 5 Haw., 75; Ellis v. Wilcox, 5 Haw., 238; Smith v. Castle, 6 Haw., 609; Spreckels v. Macfarlane, 9 Haw., 167.

CHAPTER 128.

JOINT STOCK COMPANIES.

§ 2031. Joint stock companies, for the purpose of carrying on any business or undertaking, either mercantile, agriculture, or manufacturing, or buying, selling, leasing, or otherwise dealing in real estate and buildings and other structures, whether used or intended to be used as shops, stores, warehouses, offices, boarding and lodging houses, hotels, or otherwise, for which individuals may lawfully associate themselves

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(excepting banking and professional business) shall be incorporated in the following manner and in no other.

§ 2032. Any number of persons not less than five, a majority of whom are residents in this Territory, desiring to become incorporated as a joint stock company, shall sign articles of association, and acknowledge the same before any officer authorized to take acknowledgments, which articles shall contain the following particulars:

First. The name of the corporation, which shall be followed by the word "Limited."

Second. The place of its principal office.

Third. The purpose of the company.

Fourth. The amount of its capital stock, and, if the privilege of subsequent extension of the capital stock is asked for, the limit of such extension.

Fifth. The number and designation of officers proposed.

§ 2033. Said articles of association shall be recorded in the office of the treasurer in a book to be kept for the purpose, which shall at all times during business hours be open to the inspection of the public without charge.

§ 2034. An affidavit sworn to by the president, secretary, and treasurer of such association shall also be filed in the office of the treasurer at the time of filing the articles of association, which affidavit shall set forth the number of shares, amount of capital stock, the names of the subscribers for shares, and the amount paid in. When the object of the incorporation is to take over and conduct any existing agricultural, grazing, manufacturing, shipping, or trading business or enterprise, the affidavit shall also contain a full description of the property intended to represent the capital stock of the proposed corporation, a detailed valuation of each item of the said property, and a copy of the conveyance to be made by the owner or owners of said business or enterprise to the proposed corporation.

§ 2035. Upon the filing of said articles of association and affidavit the persons who have subscribed the same, their associates, successors, and assigns, shall thereafter be deemed to be and be a body corporate by the name and style provided in said articles, and shall have succession and corporate existence for such term as may be agreed upon, not to exceed fifty years, and shall have all of the powers and be subject to all of the liabilities now provided by law for incorporated companies, and shall be subject to all general laws hereafter to be enacted in regard to corporations. No stockholder shall be liable for the debts of the corporation beyond the amount of what may be due upon the share or shares owned by him.

§ 2036. No corporation shall engage in business in this Territory unless three-fourths of the shares have been subscribed for, nor unless ten per cent of the capital shall have been paid in, or the corporation shall have acquired property of a value equal to ten per cent of its capital.

§ 2037. Every certificate of stock issued by any corporation shall plainly state how much of the par value of the same has been paid in.

§ 2038. Any company incorporated under the laws of this Territory, upon a vote of three-fourths of all the shares at any meeting of the stockholders, may issue and dispose of preferred stock, and may stipulate that the holders of such stock shall be entitled to a dividend not to exceed ten per cent per annum out of the annual profits of the company in preference to all other stockholders, and that the holders of such preferred stock may convert the same into common stock at their

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election at any time. Any deficiency in dividend upon the preferred stock, below the rate fixed, shall not be made good out of the profits of any succeeding year.

§ 2039. The directors of any incorporated company shall have power to sell at public auction a sufficient number of shares of any stockholder who shall neglect to pay any assessment duly levied upon the shares, until the whole par value has been paid in. Before making such sale a notice of ten days shall be given to delinquent stockholders residing in this Territory, and a notice of intention to sell published for three weeks in the case of delinquent stockholders outside of this Territory.

§ 2040. Any person or persons who shall make a false statement in any affidavit, return, statement, or certificate of stock in regard to a corporation, or who shall overvalue any property mentioned in such affidavit, statement, or return, or who shall do business as a corporation or hold themselves out to be a corporation without having complied with the provisions of this act, shall be held to be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding five thousand dollars. The several district magistrates throughout the Territory shall have jurisdiction to try all offenses under this act, and to impose the penalty herein named.

§ 2041. Section 2028 shall not be held to apply to joint-stock companies incorporated under this chapter, except as to increase of capital stock, but all other provisions of chapter 127 not inconsistent herewith shall apply to joint-stock companies formed under this chapter.

§ 2042. No corporation shall be formed for any of the purposes stated in this chapter in any other manner than as is above provided.

§ 2043. The treasurer, with the approval of the governor, shall have power to grant and allow amendments to all existing charters of incorporation and articles of association of incorporated companies and all hereafter granted, provided such amendments confer no other or greater powers or privileges than could be lawfully conferred or obtained in an original charter of incorporation or articles of association.

§ 2044. All amendments to existing charters of incorporation or articles of association heretofore allowed and granted are hereby declared valid.

NOTE TO CHAPTER 128.

§ 2031 is S. L. 1896, act 39. §§ 2032–2042 are S. L. 1890, ch. 43. §§ 2043, 2044 are L. R., act 13.

Cases in Hawaiian Reports: Widemann v. Thomas, 10 Haw., 366; Hackfeld v. King, 11 Haw., 5.

CHAPTER 129.

BANKING COMPANIES.

§ 2045. Charters of incorporation for the purpose of carrying on the business of banking may be granted by the treasurer, by and with the advice and consent of the governor, subject to the provisions of this chapter, in like manner as other charters of incorporation may by law be granted.

§ 2046. Every such charter shall designate:

The name of the corporation.

The principal place of its business.

The amount of its capital stock.

The number of shares into which the capital stock is divided.

The names and places of residence of the incorporators.

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The amount of stock subscribed by the incorporators.

The term of years during which the corporation shall exist.

The names and places of residence of the directors who are appointed for the first year.

§ 2047. Before filing an application for any such charter the persons applying for the same must subscribe a memorandum of association containing the following particulars:

1. The name of the company, with the addition of the word "limited" at the end of the name.

2. The principal place of its business.

3. The objects for which the corporation is established.

4. A declaration of the liability of its members being limited.

5. The amount of its capital and the number of shares into which such capital is divided, and the amount of stock subscribed by the incorporators.

6. Whether it is proposed to increase the amount of such capital.

7. And also articles of association prescribing and defining the constitution, business, and capital of the company, the amount, transfer, and forfeiture of shares, the assessments or calls to be made on the stockholders, the appointment, qualification, remuneration, powers, and duties of directors and of officers, and such other regulations as the subscribers of the memorandum may deem expedient.

§ 2048. Certified copies of the memorandum of association and articles of association shall be filed with the application for the charter.

§ 2049. Upon the granting of the charter the memorandum and articles of association shall bind the corporation and its members as if each member had executed these instruments as deeds.

§ 2050. The granting of the charter shall be conclusive as to the fact of the corporation having complied with the requirements of this chapter up to the date of the issuing of such charter.

§ 2051. The corporation may, by passing special resolutions at general meetings, from time to time alter or add to the regulations contained in its articles, and such regulations so altered or added shall be deemed of the same validity as if they had been originally in the articles of association.

§ 2052. No charter shall be granted under the provisions of this chapter to any company whose capital stock is less than two hundred thousand dollars.

§ 2053. At least seventy-five per cent of the whole capital stock shall have been subscribed, and at least fifty per cent of the whole capital of every such corporation shall be paid in, before it shall be authorized to commence business, and if through any cause such paid-in stock shall be diminished, the corporation shall, within thirty days, increase the same to the amount required by this section, and in default thereof shall be closed and its business wound up by a receiver appointed in due process of law. Any proceedings which may be requisite for the purposes last aforesaid may be instituted by the Treasurer or by any shareholder or creditor of the corporation.

§ 2054. Whenever any shareholder or his assignee shall fail to pay any installment of the capital stock required to be paid in by the directors, and no other provision is made by the articles of association, the directors may sell the stock of such delinquent shareholders, at public sale, in the city of Honolulu, after notice of such sale has been given by publication thereof in the English language in a newspaper published in the city of Honolulu, and the excess, if any, received upon such sale, after deducting the amount due thereon and the expense of

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such sale, shall be paid to such delinquent shareholders: Provided, That if no bidder can be found who will pay for such stock the amount due thereon to the corporation, the amount therefor paid in on such stock shall be forfeited to the corporation and such stock shall be sold as the directors may order within six months from the time of such forfeiture, and if not sold, it shall be cancelled.

§ 2055. It shall be lawful for any corporation formed under this chapter to provide in its articles of incorporation for increasing the capital from time to time by consent of two-thirds of its shareholders by a special resolution, but no such increase shall be valid until the increased capital shall be paid in and until notice thereof shall have been given to the treasurer and a certificate has been issued by him specifying the amount of such increase of capital stock and that he is satisfied that the same has been duly paid in, and such certificate shall be advertised in the like manner and for the like time as the original certificate authorizing the corporation to commence business, and such corporation may in like manner, by consent of two-thirds of its shareholders, reduce its capital stock to any sum not below the amount required by this chapter to authorize the formation of such corporation, nor below the amount required for the payment of its outstanding obligations, nor shall such reduction be made until the amount of the proposed reduction has been sanctioned by an order of the supreme court or one of the judges thereof. When such sanction and special resolution has been obtained the capital may be reduced, whether fully paid up or not.

§ 2056. The treasurer shall examine into the condition of the corporation formed under this chapter and ascertain the amount of money paid in on account of its capital, the name and place of residence of each director, and the amount of capital stock which each director owns in good faith, and generally whether such corporation has complied with the provisions of this chapter to entitle it to engage in the business of banking; and if it satisfactorily appear to said treasurer that such corporation is lawfully entitled to commence the business of banking he shall deliver to such corporation a certificate stating that said corporation has complied with the provisions required to be complied with before commencing the business of banking, and that such corporation is authorized to commence such business, and such certificate shall be published in a newspaper published in the city of Honolulu for at least sixty days after the issuing thereof and shall be conclusive evidence as to the fact of the corporation having complied with the requirements of this chapter up to the date of such certificate.

§ 2057. Each stockholder of a corporation formed under this chapter is individually and personally liable for such portions of its debts and liabilities as the amount of stock or shares owned by him bears to the whole of the subscribed capital stock or shares of the corporation, and for a like proportion only of each debt or claim against the corporation. And in the event of any judgment being obtained against the corporation, and the assets thereof being insufficient to satisfy such judgment, the court in which such judgment shall have been obtained, or any judge thereof, may order execution to issue against the stockholders severally for the proportion of the claim payable by each; or any creditor of the corporation may institute joint or several actions against any of its stockholders for the proportion of his claim payable by each, and in such action the court shall ascertain the proportion of the claim or debt for which each defendant is liable, and a several judgment shall be rendered against each in conformity with such liability. If any stockholder pays his proportion of any debt due from the corporation, incurred while he

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was such stockholder, he is relieved from any further personal liability for such debt, and if an action has been brought against him upon such debt, it shall be dismissed as to him. The liability of each stockholder is determined by the amount of stock or shares owned by him at the time the debt or liability was incurred, and such liability is not released by any subsequent transfer of the stock. The term stockholder, as used in this section, shall apply not only to such persons as appear by the books of the corporation to be such, but also to every equitable owner of stock, although the same appear on the books in the name of another. Stock held as collateral security, or by a trustee, or in any other representative capacity, does not make the holder thereof a stockholder within the meaning of this section, so as to charge him with any proportion of the debts or liabilities of the corporation, but the pledger or the person or estate represented is to be deemed the stockholder as respects such liability.

§ 2058. Every corporation authorized to carry on business by virtue of the provisions of this chapter before it commences business, and on the last Monday in January and July in every year, shall make a statement in the form prescribed by the schedule annexed to this chapter, or as near thereto as circumstances will admit, which statement shall be verified by the oath of the president, secretary, or cashier, and any person who shall swear to the said statement knowing the same or any part thereof to be false, shall be guilty of perjury in the second degree, and shall be liable on conviction to all the penalties prescribed by law for such offense. A copy of such statement shall be put up in some conspicuous place in the principal office and in every branch or place where the business of the company shall be carried on, and the directors shall cause the said statements to be published in Honolulu in the English and Hawaiian languages in at least one weekly for three times and one daily newspaper for one week.

If the corporation shall make default in compliance with any of the provisions of this section, it shall be liable to a penalty not exceeding fifty dollars for every day of default, and any director or manager permitting or allowing such default shall be liable to a like penalty. All such penalties may be recovered before any district magistrate.

§ 2059. The president and cashier of any corporation formed under this chapter shall cause to be kept at all times a full and correct list of the names and residences of all the shareholders in the corporation, and the number of shares held by each, in the office where its business is transacted. Such list shall be subject to the inspection of all the shareholders and creditors of the corporation during the regular business hours of the corporation.

A copy of such list, verified by the oath of the president or cashier, shall, on the first Monday of September of each year, be filed in the office of the treasurer.

§ 2060. The treasurer and the registrar of public accounts of the Territory shall, not less than two nor more than four times in each year, make an examination into all the affairs of any corporation formed under this chapter, and for that purpose may examine any officer and agent of the same under oath, and shall make a full and detailed report of the condition of the corporation to the governor, and no such corporation shall be subject to any other visitorial powers except those which are vested in the courts of justice.

§ 2061. The stockholders of any corporation formed under this chapter shall at no time be allowed to be collectively indebted or liable to such corporation, either as principal debtors or as sureties, or both, to

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an amount greater than three-fifths of the capital stock actually paid in and remaining undiminished by losses or otherwise; nor shall the directors be so indebted or liable, except to such an amount and in such manner as shall be prescribed by the by-laws of such corporation.

§ 2062. The capital stock of any corporation formed under this chapter shall be divided into shares of equal value of an amount to be declared in the articles of incorporation, and the said shares shall be assignable on the books of the corporation, in such manner as its by-laws shall prescribe; but no shareholder in any such corporation shall have the power to sell or transfer any share held in his own right so long as he shall be liable, either as principal debtor, surety, or otherwise, to the corporation for any debt which shall have become due and remain unpaid, nor in any case shall the shareholder be entitled to receive any dividend, interest, or profit on such shares so long as such liabilities shall continue, but all such dividends, interest, or profits shall be retained by the corporation and applied towards the discharge of such liabilities.

§ 2063. No corporation formed under this chapter shall take as security for any loan or discount a lien upon any part its own capital stock, and no such corporation shall be the purchaser of any part of its own capital stock, nor of the capital stock of any other corporation formed under this chapter, or of any incorporated company or partnership firm, unless such purchase shall be necessary to prevent loss from a debt previously contracted in good faith, or unless in the case of the forfeiture of stock for nonpayment of installments due thereon; and all stock thus purchased or acquired shall be disposed of again within six months from the date of purchase or acquisition.

§ 2064. The affairs of every corporation formed under this chapter shall be managed by not less than five nor more than eleven directors, subject to the provisions herein contained. It shall be lawful for the corporation to prescribe by its articles of association and qualifications of directors, the time and method of their election, and the term for which they shall hold office, and to define their powers and authorities, to provide for their removal from office, the filling of vacancies, and all other matters in connection with their office, and with the management of the business of the corporation; provided, that the directors elected or appointed shall be residents of the Hawaiian Islands.

§ 2065. No person shall serve as a director who does not own in his own right at least ten shares of the capital stock of said corporation; nor unless when appointed or elected he shall take an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of such corporation, and will not knowingly violate or willingly permit to be violated any of the provisions of this chapter, and that he is the owner in good faith of the number of shares of stock required by this chapter standing in his name on the books of the corporation, or subscribed by him, and that the same is not in any way hypothecated or pledged as security for any loan or debt. Such oath subscribed by the person taking it and certified by the officer before whom it is taken shall be filed in the office of the treasurer.

§ 2066. No corporation formed under this chapter shall at any time be indebted or in any way liable to an amount exceeding the amount of its capital stock at such time actually paid in and remaining undiminished by losses, or otherwise, except on the following accounts, viz:

First. On account of moneys deposited with or collected by such corporation.

Second. On account of bills of exchange or drafts drawn against

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money actually on deposit to the credit of such corporation, or due thereto.

Third. On account of liabilities to its stockholders for money paid in on the capital stock or for dividends and reserved profits.

§ 2067. No part of the capital stock of a corporation formed under this chapter shall, during the time it continues its business, be withdrawn either in the form of dividends or otherwise.

§ 2068. Twice at least in every year the accounts of every corporation carrying on business under the provisions of this chapter shall be examined by an auditor or auditors who shall be elected annually by the corporation in general meeting.

No shareholder nor officer of the corporation shall be capable of being elected an auditor of such corporation.

An auditor on quitting office shall be eligible for reelection.

If any casual vacancy occurs in the office of any auditor, the surviving auditor or auditors (if any) may act, but if there is no surviving auditor, the directors shall forthwith call a special general meeting of stockholders for the purpose of supplying the vacancy or vacancies in the auditorship.

Every auditor shall have a list delivered to him of all books kept by the corporation and shall at all reasonable times have access to the books and accounts of the corporation; and any auditor may, in relation to such books and accounts, examine the directors or any other officer of the corporation.

The auditor or auditors shall make a report to the stockholders on the accounts examined by him or them, and on every balance sheet laid before the corporation in general meeting during his or their tenure of office; and in every such report shall state whether in their or his opinion the balance sheet referred to in the report is a full and fair balance sheet, properly drawn up, so as to exhibit a correct view of the state of the corporation's affairs as shown by the books of the corporation, and such report shall be read before the corporation in general meeting.

The remuneration of the auditor or auditors shall be fixed by the general meeting appointing such auditor or auditors.

§ 2069. Every balance sheet submitted to the annual or other meeting of the members of the corporation shall be signed by the auditor or auditors and by the president, secretary, or manager (if any) and by the directors of the corporation, or three of such directors at the least.

§ 2070. Every corporation formed under the provisions of this chapter shall, in addition to the powers conferred upon bodies corporate by the provisions of chapter 127, have the following powers, subject to all the restrictions and provisions herein contained to carry on the business of a bank of discount and deposit in this Territory, and to make loans of money on cash, credit accounts, promissory notes, bills of exchange or letters of credit, and other securities of the like nature. And it shall also be lawful for the corporation to deal in money, bullion, specie, precious metal, and exchanges of and with all countries, and in notes, bills, or other securities for money, and generally to transact all such other business as is or shall or may at any time hereafter be usual or lawful for establishments carrying on banking in all its branches, except as a bank of issue, to do or transact; also to take security by hypothecation of bills of lading for the payment of any bill or bills of exchange drawn against any shipment of any description of produce, bullion, or merchandise shipped for exportation to foreign ports, or from foreign ports to any port of this Territory, or from one port to another in this

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Territory. Also to make any advances of money to the proprietors of any sugar mill or sugar or rice plantation on condition of receiving in payment as security only for such money the crops of sugar and other produce of such proprietor. And also to accept and take such real estate as shall be mortgaged to it in good faith by way of security, such as shall be conveyed to it in satisfaction of debts previously contracted, such as it shall purchase at sales under judgments, decrees, or mortgages held by the corporation, or shall purchase to secure debts due to it; but no such corporation shall hold the possession of any real estate under mortgage or the title and possession of any real estate purchased to secure any debts due to it for a longer period than five years. It may hold and dispose of every kind of personal property, chattels, wares, and merchandise, franchises or incorporeal rights and easements which it may have taken in good faith as security in the ordinary course of its business, as the interest of the corporation may require. The corporation shall not undertake or be employed in any commercial, agricultural, manufacturing, or common carrier business; and its right to hold and dispose of property acquired from securities or in payment of debts shall not be construed to authorize the bank to undertake, engage in, or carry on any such business as last above mentioned.

§ 2071. If for any reason any corporation formed under this chapter desires to disincorporate and wind up its affairs, it shall present a petition to the treasurer, together with a certificate setting forth that at a meeting of its stockholders, called for that purpose, it was decided by a vote of three-fourths or more of the stockholders to dissolve the corporation, which certificate shall be signed by the presiding officer and secretary of such meeting. The treasurer shall enter such petition and certificate of record in his office, and after thirty days' notice by publication in Hawaiian and English, in two newspapers published in Honolulu, shall proceed to consider the same, and if satisfied that the vote certified has been duly taken and that all debts due by the said corporation have been paid and discharged, he shall declare the corporation dissolved.

§ 2072. Unless other persons are appointed by some court of competent jurisdiction in pursuance of due process of law, the directors of the corporation, at the time of the dissolution, shall continue to act as trustees of the stockholders and shall have full power to settle and wind up the affairs of the corporation and distribute the proceeds among the stockholders pro rata.

§ 2073. So much of chapter 127 as relates to banking corporations, and all acts and parts of acts of the legislature in so far as they may conflict with the provisions of this chapter, are hereby repealed.

§ 2074. This chapter may be cited in all proceedings and for all purposes as the banking act of 1884.

§ 2075. THE SCHEDULE HEREINBEFORE REFERRED TO:

The banking act of 1884.

Return pursuant to section 14 of the said act.

The capital of the company is ——— divided into —— shares of —— each.

The number of shares issued is ———.

Assessments to the amount of ——— per share have been made, under which the sum of ——— has been received.

The liabilities of the company on the first day of January (or July) were ———.

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Debts owing to sundry persons by the company:
On judgment ———.
On specialty ———.
On notes or bills ———.
On simple contracts ———.
On deposits ———.
On estimated liabilities ———.
The assets of the company on that day were:
Government securities (stating them) ———.
Bills of exchange and promissory notes ———.
Cash on hand ———.
Other securities ———.

NOTE TO CHAPTER 129.

§§ 2035–2075 are S. L. 1884, ch. 23.

[*CHAPTER 130.*]

[§§ 2076–2083.]

CHAPTER 131.

SPECIAL PARTNERSHIPS.

PART I.—FORMATION OF PARTNERSHIP.

§ 2084. A partnership may be formed between two or more persons for the transaction of any lawful business. A special partnership may be formed between one or more persons, called general partners, and one or more persons called special partners, for the transaction of any business.

§ 2085. Persons desirous of forming a special partnership must severally sign a certificate stating:

First—The name under which the partnership is to be conducted.

Second—The general nature of the business intended to be transacted, and the place or places where such business is to be transacted; giving, if possible, the street and number on the street.

Third—The names of all the partners and the residence of each; specifying which are general and which are special partners.

Fourth—The amount of capital which each special partner has contributed to the common stock.

Fifth—The periods at which such partnership will begin and end.

§ 2086. Certificates under the last section must be acknowledged by all the partners before some officer authorized to take acknowledgments of deeds, and filed in the office of the Treasurer, who shall preserve the same and keep a record of the same, which shall be duly indexed. Such certificate, record, and index shall, during all business hours, be open to the inspection of the public free of charge. A fee of fifty cents shall be charged for each name signed to any such certificate. If any false statement is made in any such certificate, all the persons interested in the partnership shall be liable, as general partners, for all the liabilities thereof.

§ 2087. An affidavit of each of the partners, stating that the sums specified on the certificate of the partnership as having been contributed by each of the special partners, have been actually paid in the lawful money of the Territory, must be filed with the certificate above mentioned.

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§ 2088. No special partnership is formed until the provisions of the last four sections are complied with.

§ 2089. The certificate mentioned in this article, or a statement of its substance, except the amount of capital contributed by any special partner, must be published in at least two newspapers printed in the English language in Honolulu, once a week for four successive weeks, beginning with one week from the time of filing the certificate. In case such publication is not so made, the partnership must be deemed general.

§ 2090. An affidavit of the making of the publication mentioned in the preceding section, made by the printer or publisher of the newspaper in which such publication is made, may be filed with the original certificate above mentioned, and shall be *prima facie* evidence of the facts therein stated.

PART II.—POWERS, RIGHTS, AND DUTIES OF THE PARTNERS.

§ 2091. The general partners only shall have authority to transact the business of a special partnership.

§ 2092. A special partner may at all times investigate the partnership affairs and advise his partners or their agents as to their management.

§ 2093. A special partner may lend money to the partnership or advance money for it, or to it, and take from it security therefor, and as to such secured loans or advances has the same rights as any other creditor, but in case of the insolvency of the partnership all other claim which he may have against it must be postponed until all other creditors are satisfied.

§ 2094. In all matters relating to a special partnership its general partners may sue and be sued alone in the same manner as if there were no special partners.

§ 2095. No special partner, under any pretense, may withdraw any part of the capital invested by him in the partnership during its continuance.

§ 2096. A special partner may receive such lawful interest and such proportion of profits as may be agreed upon, if not paid out of the capital invested in the partnership by him or some other special partner, and is not bound to refund the same to meet subsequent losses.

§ 2097. If a special partner withdraws capital from the firm, contrary to the provisions of this part, he thereby becomes a general partner.

PART III.—LIABILITY OF PARTNERS.

§ 2098. The general partners in a special partnership are liable to the same extent as partners in a general partnership.

§ 2099. The contribution of a special partner to the capital of the firm and the increase thereof is liable for its debts, but he is not otherwise liable therefor, except as follows:

(1) If he has willfully made or permitted a false or materially defective statement in the certificate of the partnership, the affidavit filed therewith, or the published announcement thereof, he is liable as a general partner to all creditors of the firm; or

(2) If he has willfully interfered with the business of the firm, except as permitted hereinabove, he is liable in like manner; or

(3) If he has willfully joined in or assented to an act contrary to any of the provisions of Part II of this chapter he is liable in like manner.

§ 2100. When a special partner has, unintentionally, done any of the acts mentioned in the last section, he is liable as a general partner to

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any creditor of the firm who has been actually misled thereby to his prejudice.

PART IV.—ALTERATION AND DISSOLUTION.

§ 2101. A special partnership becomes general if, within ten days after any partner withdraws from it, or any partner is received into it, or a change is made in the nature of its business or in its name, a certificate of such fact, duly verified and signed by one or more of the partners, is not filed with the treasurer and notice thereof published, as is provided in Part I of this chapter for the publication of the certificate.

§ 2102. New special partners may be admitted into a special partnership upon a certificate and affidavit being filed and recorded according to the provisions of Part I of this chapter.

§ 2103. A special partnership is subject to dissolution in the same manner as a general partnership, except that no dissolution by the act of the partners is complete until a notice thereof has been filed and recorded in the office of the treasurer and published at least once in each week for four successive weeks in at least two newspapers printed in Honolulu in the English language.

§ 2104. The name of a special partner must not be used in the firm name of the partnership, unless it be accompanied with the word "Limited."

NOTE TO CHAPTER 131.

§§ 2084–2104 are S. L. 1886, ch. 70.

CHAPTER 132.

DESCENT OF PROPERTY.

§ 2105. Whenever any person shall die intestate within this Territory, his property, both real and personal, of every kind and description, shall descend to and be divided among his heirs, as hereinafter prescribed.

§ 2106. The property shall be divided equally among the intestate's children, and the issue of any deceased child by right of representation, and if there is no child of the intestate living at his death, his estate shall descend to all his other lineal descendants; and if all the said descendants are in the same degree of kindred to the intestate, they shall share the estate per capita, that is, equally; otherwise they shall inherit per stirpes, that is, by each of the children taking a share, and the grandchildren, the children of a deceased child, taking a share, to be afterwards divided among themselves.

If the intestate shall leave no issue, his estate shall descend one-half to his widow and the other half to his father and mother as tenants in common; and if he leave no widow nor issue, the whole shall descend to his father and mother, or to either of them if only one be alive.

If he shall leave no issue, nor father, nor mother, his estate shall descend one-half to his widow, and the other half to his brothers and sisters, and to the children of any deceased brother or sister by right of representation.

If the intestate be a woman, and leave no issue, her estate shall descend one-half to her husband and the other half to her father and mother as tenants in common, and if she leave no husband nor issue the whole shall descend to her father and mother, or to either of them if only one be alive; if she shall leave no issue, nor father, nor mother, her estate shall descend one-half to her husband and the other half to

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her brothers and sisters and to the children of any brother or sister by right of representation.

If the intestate shall leave no issue, nor father, mother, brother, or sister, nor descendants of any deceased brother or sister, the estate shall descend to the intestate's widow, if any; or in case the intestate be a woman, to her husband, if any.

If the intestate shall leave none of the said relatives surviving, nor widow, nor husband, the estate shall descend in equal shares to the next of kin in equal degree, but no person shall be entitled by right of representation to the shares of such next of kin who shall have died. Provided, however, That if the estate come through either parent of the deceased intestate, the brothers and sisters of that parent and their respective heirs shall be preferred to those of the other parent.

§ 2107. If the intestate shall die leaving several children, or leaving one child and the issue of one or more others, and any such surviving child shall die under age, and not have been married, all the estate that came to the deceased child by inheritance from such deceased parent shall descend in equal shares to the other children of the same parent and to the issue of any such other deceased children who shall have died by right of representation.

§ 2108. If at the death of such child who shall die under age, and not having been married, all the other children of his said parent shall be also dead and any of them shall have left issue, the estate that came to such child by inheritance from his said parent shall descend to all the issue of the other children of the same parent; and if all the said issue are in the same degree of kindred to the said child they shall share the said estate equally; otherwise they shall take according to the right of representation.

§ 2109. If the intestate leave no kindred, his estate shall escheat to the government of Hawaii.

§ 2110. Upon the decease of any person owning, possessed of, or entitled to any estate of inheritance or kuleana in any land or lands in this Territory, leaving no kindred surviving, all such land and lands shall thereupon escheat and revert to the owner of the Ahupuaa, Ili, or other denomination of land of which such escheated kuleana had originally formed a part.

§ 2111. Every illegitimate child shall be considered as an heir to his mother and shall inherit her estate, in whole or in part, as the case may be, in like manner as if he had been born in lawful wedlock.

§ 2112. If any illegitimate person shall die intestate, without leaving lawful issue or a widow, his estate shall descend to his mother; but if he leave a widow she shall inherit one-half and his mother the other half, and if his mother be not living, but his widow is, then the widow shall take the whole; otherwise his estate shall escheat to the government of Hawaii.

§ 2113. The kindred of the half blood shall inherit equally with those of the whole blood in the same degree: Provided, however, That where the inheritance came to the intestate by descent, devise, or gift of some one of his ancestors, all those who are not of the blood of such ancestor shall be excluded from such inheritance.

§ 2114. When any part of the property left by the intestate consists of real estate, and the same is to be divided among several children, and in the opinion of the probate court it is desirable that such real estate, or any particular piece thereof, be not divided, then the eldest son, and in succession of age after him the other sons, or if he or they shall renounce or decline the privilege, then the daughters in like suc-

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cession, may, after the property or piece of property has been duly appraised by a court of probate, elect to pay to the others the amount of their shares in money, in order that the land may not be divided. And the same rule shall apply where a part of the claimants are children, and the rest are issue of deceased children of the intestate.

§ 2115. Posthumous children shall in all cases inherit the same as if they had been born during their father's lifetime.

§ 2116. If any child of an intestate shall have been advanced by him by settlement or portion of real or personal estate, or of both of them, the value thereof shall be reckoned, for the purposes of this section only, as part of the real and personal estate of such intestate, descendible to his heirs and to be distributed to his next of kin according to law. And if such advancement be equal or superior to the amount or share which such child would be entitled to receive of the real and personal estate of the deceased as above reckoned, then such child and his descendants shall be excluded from any share in the real and personal estate of the intestate.

§ 2117. But if such advancement be not equal to such share, such child and his descendants shall be entitled to receive so much only of the personal estate, and to inherit so much only of the real estate of the intestate, as shall be sufficient to make all the shares of the children in such real and personal estate and advancement to be equal as near as can be estimated.

§ 2118. The value of any real or personal estate so advanced shall be deemed to be that, if any, which was acknowledged by the child by an instrument in writing; otherwise, such value shall be estimated according to the worth of the property when given.

§ 2119. The maintaining or educating or the giving money to a child, without a view to a portion or settlement in life, shall not be deemed an advancement.

§ 2120. It shall not be requisite that the intestate shall have been in actual possession of the property; it is sufficient if he had a good claim to it at the time of his death.

§ 2121. The word "issue," as used in this chapter, includes all the lawful lineal descendants of the ancestor.

NOTE TO CHAPTER 132.

§§ 2105, 2107-2109 are C. L., §§1447, 1449-1451. § 2106 is S. L. 1898, act 47. § 2110 is S. L. 1866, C. L., p. 477. §§ 2111-2121 are C. L., §§1452-1462.

§§ 2111 and 2112 amended by S. L. 1874, ch. 50, but the amending statute repealed and the original sections reenacted S. L. 1876, ch. 9.

Cases in Hawaiian Reports: Aihonua v. Ahi, 6 Haw., 410; Kahuaku v. Union Mill, 6 Haw., 487; Keamalu v. Luhau, 7 Haw., 326; Manaku v. Moanauli, 8 Haw., 382; Thurston v. Allen, 8 Haw., 403; Est. Kualii, 8 Haw., 613; Kahai v. Kamai, 8 Haw., 696; Est. Ehu, 9 Haw., 394; Peterson v. Kaanaana, 10 Haw., 384; Carter v. Carter, 10 Haw., 687.

CHAPTER 133.

WILLS.

§ 2122. Every person of the age of eighteen years and of sound mind may dispose of his or her estate, both real and personal, by will.

§ 2123. Any married woman may dispose, by will, of all property belonging to her in her own right, in like manner as a person under no disability might do.

§ 2124. No will (except such nuncupative wills as are mentioned in this chapter) shall be valid, unless it be in writing and signed by the testator, or by some person in his presence and by his express direction,

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and attested by two or more competent witnesses subscribing their names to the will in the presence of the testator.

§ 2125. If the subscribing witnesses to a will are competent at the time of attesting its execution, their subsequent incompetency, from whatever cause it may arise, shall not prevent the probate and allowance of the will, if it be otherwise satisfactorily proved.

§ 2126. All beneficial devises, legacies, and gifts whatever, made or given in any will to a subscribing witness thereto shall be void, unless there are two other competent subscribing witnesses to the same, but a mere charge on the estate of the testator for the payment of debts shall not prevent his creditors from being competent witnesses to his will.

§ 2127. But if such witness, to whom any beneficial devise, legacy, or gift is made or given, would have been entitled to any share of the estate of the testator, in case the will had not been established, then so much of the share as would have descended or been distributed to such witness as will not exceed the devise or bequest made to him in the will, shall be saved to him, and he may recover the same of the devisees or legatees named in the will, in proportion to and out of all the parts devised or bequeathed to them.

§ 2128. Every devise, purporting to be a devise of all the real or personal estate of the testator, shall be construed to convey all the real or personal estate belonging to him at the time of his decease, unless it shall clearly appear by the will that he intended otherwise.

§ 2129. No written will shall be revoked, unless by burning, tearing, canceling, or obliterating the same, with the intention of revoking it, by the testator or by some person in his presence, and by his direction, or by some other will in writing, executed as prescribed in this chapter; but nothing contained in this section shall prevent the revocation implied by law, from subsequent changes in the condition or circumstances of the testator.

§ 2130. If, after the making of any will, the testator shall duly make and execute a second will, the destruction, canceling, or revocation of such second will shall not revive the first will, unless after such destruction, canceling, or revocation the first will shall be duly republished.

§ 2131. If, after the making of a will, the testator shall marry and shall have a child born to him, and no provision shall be made in the will for such contingency, such marriage and birth shall operate as a revocation of such will.

§ 2132. A will executed by an unmarried woman shall be deemed revoked on her subsequent marriage, and shall not be revived by the death of her husband.

§ 2133. No written will shall be allowed to be proved after the expiration of five years from the death of the testator; provided, however, that where any minor is interested in the estate one year shall be allowed after his arrival at full age to cause such will to be proved and allowed.

§ 2134. The term "will," as used in this chapter, shall be so construed as to include all codicils as well as wills.

§ 2135. Nothing contained in this chapter shall be so construed as to conflict with the law relating to dower.

NOTE TO CHAPTER 133.

§ 2122 is S. L. 1890, ch. 48. §§ 2123–2135 are C. L., §§ 1464–1476.

Cases in Hawaiian Reports: Est. Nanino, 2 Haw., 762; Kahui v. Lauki, 5 Haw., 297; Aho v. Ahuna, 6 Haw,, 151; Est. Kamaka, 9 Haw., 247; Re Newell, 10 Haw., 80.

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CHAPTER 134.

CERTAIN SPECIFIC RIGHTS OF THE PEOPLE.

§ 2136. Where the landlords have obtained, or may hereafter obtain, allodial titles to their lands, the people on each of their lands shall not be deprived of the right to take firewood, house timber, aho cord, thatch, or ki leaf, from the land on which they live, for their own private use, but they shall not have a right to take such articles to sell for profit. The people shall also have a right to drinking water, and running water, and the right of way. The springs of water, running water, and roads shall be free to all on all lands granted in fee simple; provided, that this shall not be applicable to wells and water courses which individuals have made for their own use.

§ 2137. All wood of any description which may drift onto the beach of any part of this Territory shall be the property of the finder, and anyone finding such driftwood may take the same for his own private use without paying a share to the Government; provided, however, that this section shall not be construed to apply to any vessel wrecked or stranded on any part of the shores of this Territory.

§ 2138. The Government reefs shall be free for the use of the people. Whoever, being a citizen of the United States, shall desire coral or sand from the Government reefs and lands may freely take the same, either for his own use or for sale or exportation; provided, that this section shall not apply to the Government domain in Honolulu, or Lahaina, or to any other reefs that may from time to time be set apart for the use of the Government.

NOTE TO CHAPTER 134.

§§ 2136-2138 are C. L., §§ 1477-1479.
Cases in Hawaiian Reports: Oni v. Meek, 2 Haw., 87; Haalelea v. Montgomery, 2 Haw., 63; Koa v. Kaahanui, 6 Haw., 167; Halton v. Piopio, 6 Haw., 336.

CHAPTER 135.

INTEREST.

§ 2139. When there is no express contract in writing fixing a different rate of interest, interest shall be allowed at the rate of six per cent per annum for all moneys after they become due on any bond, bill, promissory note, or other instrument of writing, for money lent, for money due on the settlement of accounts, from the day on which the balance is ascertained, and for money received to the use of another from the date of a demand made.

§ 2140. Interest at the rate of six per cent per annum, and no more, shall be allowed on any judgment, recovered before any court in this Territory, in any civil suit.

§ 2141. It shall in no case be deemed unlawful to stipulate, by written contract, for any rate of interest not exceeding one per cent per month, provided the contract to that effect be signed by the party to be charged therewith.

§ 2142. No action shall be maintained in any court of this Territory to recover a higher rate of interest than one per cent per month, upon any contract made in this Territory: Provided, however, That this section shall not be held to apply to contracts for money lent upon bottomry bonds, or upon other maritime risks, nor upon contracts made prior to the passage of this chapter.

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§ 2143. No action shall be maintainable in any court of this Territory to recover compound interest upon any contract whatever.

NOTE TO CHAPTER 135.

§§ 2139-2142 are S. L., 1898, act 4.
§ 2143 is C. L., §§ 1480-1484.
Cases in HawaiianReports: Jones v. Wight, 8 Haw., 618; Bolte v. Akau, 8 Haw., 743; Herblay v. Norris, 8 Haw., 338.

CHAPTER 136.

LEGAL MAJORITY.

§ 2144. All male persons residing in this Territory who shall have attained the age of twenty years, and all females who shall have attained the age of eighteen years, shall be regarded as of legal age and their period of minority to have ceased.

NOTE TO CHAPTER 136.

2144 is C. L., § 1487.
Cases in Hawaiian Reports: Wood v. Green, 2 Haw., 168.

CHAPTER 137.

HOLIDAYS.

§ 2145. The following days of each year are hereby set apart and established as national holidays, to wit:
The first and seventeenth days of January, the eleventh day of June, the fourth day of July, the third Saturday of September, the twenty-eighth day of November, and the twenty-fifth day of December.

NOTE TO CHAPTER 137.

§ 2145 is S. L. 1896, act 66.

CHAPTER 138.

LABOR COMMISSION.

§ 2146. The governor of the Territory is hereby authorized and directed to appoint, by and with the advice and consent of the Senate, a commission of three persons, who shall be known as the "Labor Commission," and all of whom shall serve without pay. One of the commissioners shall be designated by the governor to be chairman of the commission, and shall have power to administer oaths. Members of the commission may be removed at any time by the governor.
§ 2147. Vacancies caused by death, resignation, refusal to serve, or other cause, shall be filled by appointment of the governor by and with the advice and consent of the senate.
§ 2148. It shall be the duty of the said commission to make a full and careful inquiry and investigation into the following matters, so far as the same shall not have been done by the labor commission provided for in Act IV of the executive and advisory councils of the Territory, and to report from time to time to the legislature, if the same shall be in session, or to the governor if the legislature shall have adjourned:
1. The number and nationality and residence of all agricultural laborers now employed in the Territory, showing the number engaged in each particular branch of agriculture.

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2. The rate of wages paid to the different nationalities of such laborers in the different portions of the Territory.

3. The number, nationality, and residence of all mechanics now employed in the Territory.

4. The rate of wages paid to the different nationalities of such mechanics in the different portions of the Territory.

5. The prices received by Hawaiian sugar planters for raw sugar.

6. The cost of producing sugar, showing, so far as practicable, the cost of each stage and process, and showing more particularly the proportionate cost of unskilled labor.

7. Whether or not an increased number of agricultural and other unskilled laborers will be needed in the near future, and if so, in connection with what industries and how many laborers wlll probably be required.

8. The trials which have been given to cooperative production, or profit sharing, in the production of sugar, rice, or other agricultural products in this country, giving, so far as practicable, the details of the several agreements and methods adopted, and the results thereof.

9. Whether or not a system of cooperative production or profit sharing is feasible in connection with the main agricultural industries of the country; and if so, upon what lines.

10. Whether or not such a system of production has ever been adopted in any other country situated similarly to Hawaii, and in the production of similar products to those produced here; and if so, what the results were.

11. Whether or not there is anything in the climatic or other conditions in this country which renders it physically impossible for Europeans and Americans to successfully engage in field labor in this country.

12. If Europeans and Americans are found capable of personal field labor, whether or not it is feasible to secure the immigration of a sufficient number of Europeans or Americans to supply the present and probable requirements for unskilled labor. If so, upon what terms and by what means, and from what countries.

13. What the effect of Chinese immigration has been in this country.

14. What the effect of restriction of such immigration has been.

15. Whether or not it is necessary or advisable to allow the further immigration of Chinese. If so, upon what conditions.

16. What the effect of Japanese immigration has been in this country.

17. Whether or not it is necessary or advisable to allow the further immigration of Japanese. If so, upon what conditions.

18. What the condition of field labor and of mechanics is and during the last few years has been in this country, as compared with other countries.

19. What rate of wages is paid in other countries to skilled and mechanical labor in the production of products similar to those raised here.

20. In what manner and to what extent men introduced as contract laborers have competed with the mechanical or business interests of the country.

21. Any other matters of a kindred character which will throw light upon the subject and tend to solve the problems incidental to the labor question in this country.

§ 2149. It shall be the duty of all Government officers, officers of corporations, and other persons, to furnish to such commission, upon its request, all information within their knowledge bearing upon the subject-

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matter of this chapter; and power is hereby conferred upon such commission, or a majority of its members, to issue subpœnas to witnesses to appear and testify before such commission, and to produce papers before it, in the same manner as subpœnas are issued by the supreme court. Disobedience or refusal to answer questions asked pursuant to any subpœnas issued by such commission may be punished by any justice of the supreme court on a certification to him by the commission or a majority of its members of the fact of such disobedience; the punishment to be the same as that for disobedience of a subpœna of the supreme court.

§ 2150. The said commission is hereby authorized to employ a secretary or such other clerical assistance as may be necessary in collecting and arranging the above information; also a stenographer and typewriter when required, and to fix the compensation of the same, subject to the approval of the governor; also to incur the necessary incidental expenses connected with the performance of the work of the commission, including traveling expenses of the members of the commission and of witnesses summoned by them; provided, however, that no expense shall be incurred for traveling beyond the limits of this territory.

§ 2151. For the purposes of defraying the expenses of such commission there is hereby authorized to be drawn from the public treasury any balance that may remain unexpended from the amount appropriated for the expenses of the labor commission in act IV of the executive and advisory councils of the Republic, after paying the expenses incurred by the said commission up to the time of the appointment of the commission provided for in this chapter. The money herein appropriated shall be drawn from the treasury in such manner and under such regulations as shall be prescribed by the governor.

§ 2152. As soon as practicable after the appointment of the commission provided for in this chapter the commission provided for in act IV of the executive advisory councils of the Republic shall transfer thereto all books, papers, records, and public property of every kind that may be in its possession or under its control, and shall thereupon cease to exist.

NOTE TO CHAPTER 138.

§§ 2146–2152 are S. L. 1895, act 14.

CHAPTER 139.

EFFECT OF LAND COMMISSION AWARD.

§ 2153. Any award of the land commission not appealed from, within ninety days after its date in accordance with the present laws, shall be final and binding upon all parties, and shall be a good and sufficient title to the person receiving such award, his heirs, and assigns, and shall furnish as good and sufficient a ground upon which to maintain an action for trespass, ejectment, or other real action against any person or persons whatsoever, as if the claimant, his heirs, or assigns had received a land patent for the same; provided that nothing in this section shall be construed as annulling the Government right to commutation in any freehold award as at present established by law.

NOTE TO CHAPTER 139.

Cases in Hawaiian Reports: Kekiekie v. Dennis, 1 Haw., 42; Kuliiahu v. Gill, 1 Haw., 54; Kalama v. Kekuanaoa, 2 Haw., 202; Boundaries of the Ili of Kewalo, 3 Haw., 9; Kanaina v. Long, 3 Haw., 332; Kahoomana v. Minister, 3 Haw., 635; Brunz

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v. Minister, 3 Haw., 783; Pedro v. Chun Yun Fan, 4 Haw., 461; Boundaries of Paakea, 5 Haw., 154; Kenoa v. Meek, 6 Haw., 63; Harris v. Carter, 6 Haw., 195; Est. Kekauluohi, 6 Haw., 172; Thurston v. Bishop, 7 Haw., 421; Minister v. Papaikou, 8 Haw., 125.

CHAPTER 140.

CONSTRUCTION OF STATUTES WHERE THE ENGLISH AND HAWAIIAN VERSIONS DO NOT AGREE.

§ 2154. Whenever there shall be found to exist any radical and irreconcilable difference between the English and Hawaiian version of any of the laws of the Territory which have been or may hereafter be enacted, the English version shall be held binding.

NOTE TO CHAPTER 140.

§ 2154 is S. L. 1864, C. L., p. 490.
Cases in Hawaiian Reports: Re Ross, 8 Haw., 479.

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APPENDIX.

RULES AND REGULATIONS FOR ADMINISTERING OATHS AND HOLDING ELECTIONS.

[§§ 1–26.]

PRECINCTS—HOW LOCATED AND CHANGED.

§ 27. Whenever the convenience of electors may so require, the governor shall set apart two or more precincts in each district; and each precinct so established shall have its separate polling place: Provided, That no change shall hereafter be made as to the boundaries of any precinct within sixty days of an election.

PLACE OF REGISTERING AND VOTING.

§ 28. Every person qualified to register may do so in the precinct in which he resides; and no person shall register or vote in any other precinct than that in which he resides.

If any person resides in more than one precinct, he may elect which precinct he will register in; but he shall register in one precinct only.

Provided, however, that at any special election any person who has previously registered and since registering has moved his residence to another precinct without having had an opportunity to register therein may vote in the precinct in which he was last registered.

[§§ 29–47.]

REGISTER OF VOTERS—DETAILED RECORD OF VOTERS.

§ 48. The register of voters shall consist of a list of the names of the persons who have registered as voters in any election district, arranged alphabetically by precincts.

[§§ 49–51.]

RECORDS OF BOARD.

§ 52. In addition to the register of voters herein provided to be kept, the several boards shall each keep books of record in which full and detailed minutes shall be preserved of all their proceedings.

Such minutes shall be kept from day to day, and shall contain:

(1) The date and place of the meeting;

(2) The names of the members of the board present;

(3) The name of each person applying for registration; whether such name was registered or rejected, and if rejected, the reason therefor;

(4) The name of each person to whom an oath is administered, and, if an examination is held, the names of the witnesses and the substance of the answers of the applicant and of the witnesses;

(5) The name of any person challenging the right of any applicant to register, the grounds of challenge, the name of the person challenged, and the decision rendered thereon;

(6) All other matters of detail which are likely to have a bearing upon any question concerning the action of the board or of any person appearing before it.

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RECORDS OPEN TO INSPECTION.

§53. The register of voters and all records appertaining to the registry of voters, or to any election, in the possession of the board of registration, the inspectors of election, the chief sheriff or any sheriff, or the secretary shall, at all reasonable times, be open to the inspection of any voter.

SECRETARY OF THE TERRITORY TO FURNISH BLANKS.

§54. The secretary of the territory shall furnish suitable books and blanks for the records, registration, elections, certificates, and returns herein provided for, which shall be of uniform character.

ASSESSORS TO FURNISH LISTS OF TAXES PAID.

§55. Each tax assessor shall, not later than the 15th day of March in each and every year in which a general election is to be held, furnish to the board a correct alphabetical list, arranged by precincts, of all males of twenty years old and upwards residing within the respective precincts within their respective taxation divisions, who have paid their taxes prior to January 1st of such year.

Provided, however, that the assessor shall not place upon such list the name of any person whom he knows to be unable to qualify for registering.

Such list shall be *prima facie* evidence of who has and who has not paid his taxes as aforesaid in such precinct, but other evidence shall be admissible to disprove such presumption.

OF CANDIDATES.

NOMINATION BY ELECTORS.

§56. No person shall be permitted to stand as a candidate for election to the legislature unless he shall be nominated and so requested in writing, signed by not less than twenty-five duly qualified electors of the district in which an election is ordered, and in which he is requested to be a candidate. Such nomination shall, except as hereinafter provided, be deposited with the secretary of the territory not less than thirty days before the day of a general election or twenty days prior to a special election, except on the island of Oahu, where such nomination shall be deposited not less than ten days before the day of any election.

Each nomination shall be accompanied by a deposit of twenty-five dollars, on account of the expenses attending the election, which amount shall be paid into the treasury as a government realization.

Upon receipt at the office of the secretary of the Territory of a nomination of a candidate, the day, hour, and minute when it was received shall be endorsed thereon.

Provided, however, That in case of the withdrawal or death of a candidate, a new nomination or nominations to replace the name of the person who has died or withdrawn may be made, irrespective of such limit of time, with the inspectors of election of the districts in which such death or withdrawal has taken place, and the fee herein required deposited with them.

In such case a voter only, while voting, may write the name of any such new candidate upon the ballot, and vote for it as herein provided.

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WITHDRAWAL OF CANDIDATE—ERASURE OF NAME FROM BALLOT.

§ 57. Any candidate may withdraw before an election by giving notice to the secretary of the Territory in writing.

If a candidate shall withdraw after the printing of the ballots, such candidate shall also notify, in writing, the inspectors of election of the precincts in which he was a candidate; and the inspectors shall post, before the opening of the polls on election day, a notice of such withdrawal, or of the death of any candidate, and also the name or names of any new candidates, at the polling place.

CANDIDATES' ASSISTANTS AT THE POLLS.

§ 58. Every candidate shall, on the day preceding the election, furnish the inspectors at each precinct with a complete list of the names of all persons allowed by law to be employed and so employed by him to assist at such precinct in the election, and no person whose name is not on such list shall be permitted to attend at the polling place on behalf of such candidate.

Nothing herein contained shall be construed to forbid the gratuitous assistance of any candidate by any person.

STATEMENT OF ELECTION EXPENSES.

§ 59. Within twenty days following any election, each candidate and each agent or committee acting for or on behalf of any candidate, shall file with the secretary of the Territory an itemized statement of his or their expenses by, for, or on behalf of such candidate for election, showing each amount expended, the purpose or object for which each expenditure was made, and the person or persons to whom made; which statement shall be sworn to by each person making such expenditures, and shall be open to public inspection.

STATEMENT WHEN NO EXPENSES ARE INCURRED.

§ 60. If a candidate, or any agent or committee acting on his behalf, has, or have, incurred no expenses on account of such election, he and they shall file, within twenty days after the election, with the secretary of the Territory, a sworn statement setting forth such fact.

EXPENSES LEGALLY INCURRABLE.

§ 61. The following expenses, and no other, may be legally incurred by or for a candidate for election as senator or representative, viz:

1. His personal expenses as a candidate.
2. Expenses of printing and advertising.
3. Cost of stationery and postage.
4. Expenses of public meetings.
5. Rent and supplies of committee rooms, not to exceed one for each polling place.
6. Salaries of not more than one clerk and two messengers for each polling place.
7. Salaries of not more than one watcher, on election day only, at each polling place.

[§§ 62–63.]

§ 64. Whenever any vacancy in the elective membership of the legislature shall occur, the governor shall cause a special election to be held to fill the same.

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Any special election shall conform, in all respects, except as otherwise herein provided, to the regular biennial elections held under the provisions hereof.

SPECIAL ELECTION BY REASON OF TIE VOTE.

§ 65. In case of the failure of an election by reason of the equality of vote between two or more candidates, a return in accordance with the facts shall be made by the chief sheriff or sheriff, as the case may be, to the governor, who shall immediately order a special election to fill such vacancy.

In case of such special election the nominations of candidates already filed shall be sufficient.

Nominations for new candidates may also be made in accordance with the provisions hereof.

[§ 66.]

ELECTION PROCLAMATIONS—TIME OF ISSUING.

§ 67. At least forty days before any election, and at least forty days before a special election, the governor shall issue an election proclamation and transmit copies of the same to the several boards of inspectors throughout the Territory where such election is to be held.

CONTENTS OF PROCLAMATION.

§ 68. Such proclamation shall contain a statement of the time and places where and the purposes for which the election is to be held. It may also contain any other relevant matter deemed proper by the governor, including an offer of rewards for the detection and conviction of offenders against the election laws.

PUBLICATION OF PROCLAMATIONS.

§ 69. Such proclamation shall be published in Honolulu in the Hawaiian and English languages in one or more newspapers, and copies of so much of such election proclamation as relates to the respective districts shall be posted in not less than three public and frequented places in each precinct where such election is to be held.

OF INSPECTORS OF ELECTION.

NUMBER—HOW APPOINTED, AND VACANCIES FILLED.

§ 70. There shall be three inspectors of election for each precinct.

They shall be appointed by the governor, as far as reasonably practicable, from the opposing parties.

In case of inability, failure, or refusal of any person so appointed to act as such inspector, the governor shall, so far as reasonably practicable, appoint a person to fill such vacancy from the same party that such person so failing to act belonged to.

Provided, however, that if it is impossible to communicate with the governor in time for him to make such appointment before the election is held, the remaining inspector or inspectors shall appoint a person or persons to fill such vacancy.

DUTIES OF INSPECTORS.

§ 71. It shall be the duty of the several boards of inspectors:

1. To post, as soon as received, written or printed copies of the reg-

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ister of voters received from the board of registration in at least three public and frequented places in their several precincts;

2. In similar manner, to post all election proclamations at least seven days before any election, and at the opening of the polls to post the specimen ballots and cards of instruction, as herein required;

3. To correct the copy of the register of voters, when, and in the manner ordered by the board of registration;

4. To prepare the polling places in manner herein required; preside at each election and have full charge of the same and preserve order at the polls;

5. To record the name of each person polling a vote, and also to check off, upon the register of voters furnished by the board of registration, the name of each voter polling a vote;

6. To ascertain and publicly announce the result of the election;

7. To transmit the result of the election to the sheriff of the island, except in the island of Oahu, where the result shall be transmitted to the chief sheriff;

8. To preserve and transmit to the secretary of the territory all ballots polled, cancelled, or unused, together with all electoral lists and records concerning the election, and copies of the statements of the result of the election;

9. To keep a complete record of all transactions and proceedings of the board of inspectors;

10. In case of the withdrawal or death of any candidate whose name has been printed on the ballots, or nomination of new candidates, to post a notice of such facts at the polls.

11. To care for the ballot boxes and other property pertaining to elections, and generally to do and perform all other acts, matters, and things by law required of them or which are necessary or properly incidental to the execution of their duties.

CHAIRMAN OF INSPECTORS.

§ 72. Unless otherwise directed by the governor, the inspector first named in the respective lists of boards of inspectors shall be the chairman and shall preside at all meetings of inspectors.

A decison of a majority of the members of the board of inspectors shall be the decision of such board.

ABSENCE OF CHAIRMAN.

§ 73. In all cases under the provisions hereof, where duties are to be performed by the chairman of the inspectors, such duties may be performed by some other one of the inspectors whenever the chairman is temporarily absent, or is otherwise for the time being unable to perform such duties.

CORRECTION OF VOTING LIST.

§ 74. No change shall be made in the copy of the register of voters furnished to the inspectors by the board of registration except by the inspectors, upon and in accordance with the written order of the board of registration for the district.

The name, date, and reason for each change or correction made shall be entered in the inspectors' record.

BALLOT BOXES.

§ 75. The secretary shall provide two suitable ballot boxes for each polling place. One of such boxes shall be marked in plain letters "For

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Senators," and the other "For Representatives." They shall bear no other device or mark.

Such boxes shall be made of wood, of a single thickness of boards, not over one inch nor less than three-quarters of an inch in thickness. They shall be smooth inside and out and shall have a hinged lid fastened securely by a good lock or locks. In the center of such lid there shall be an aperture of not more than three inches in length, and not over one-quarter of an inch in width, which may be protected by a lid or raised edge.

OF POLLING PLACES.

SALOONS PROHIBITED.

§ 76. No polling place shall be on any premises where the sale of intoxicating liquors, beer, or wine is licensed.

POLLING APARTMENT.

§ 77. The inspectors shall prepare at each polling place a suitable compartment or space in which shall be placed, at a point convenient for voters, the two ballot boxes herein provided for.

ARRANGEMENT OF VOTING COMPARTMENTS.

§ 78. The inspectors shall cause to be provided within the polling apartment not more than three voting shelves or compartments at or in which voters may conveniently mark their ballots.

Such shelves shall be so arranged that in marking ballots thereon the voters may be screened from the observation of others.

A guard rail shall be so constructed and placed that only such persons as are inside said rail can approach within six feet of the ballot boxes and of such voting shelves or compartments.

The arrangement shall be such that neither the ballot boxes nor the voting shelves or compartments shall be hidden from the view of those just outside the said guard rail.

No persons other than the election officers and voters in the act of preparing their votes, or voting, shall be admitted within said rail, except by authority of the inspectors for the purpose of keeping order and enforcing the law.

Each voting shelf or compartment shall be kept provided with conveniences for marking the ballots.

PERSONS ALLOWED WITHIN THE POLLING APARTMENT.

§ 79. The inspectors shall, previously to opening the polls, set apart a sufficient space around the polling place to prevent interference with the conduct of the election; and no person other than the inspectors, the candidates, or their respective agents, not more than two each, and such voters, not exceeding six at a time, as are for the time being actually engaged in voting, shall be permitted within the space so set apart during the time appointed for voting.

TIME OF OPENING AND CLOSING POLLS.

§ 80. The polls shall be opened by the inpectors at 8 of the clock upon the morning of the election day, and shall be kept open continuously until 5 of the clock in the afternoon of said day, unless all of the registered voters of the precinct shall have polled their votes previous to

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that time, after which the polls shall be closed and the votes counted as hereinafter provided.

PROCEDURE UPON OPENING POLLS.

§ 81. At the opening of the polls for election, the chairman of the inspectors shall, in presence of any bystanders, publicly open the ballot boxes and expose them to all persons present, that it may be seen that they are empty. They shall then be closed and locked, and on no account opened till the poll is closed.

At the opening of the polls the seals of the packages of ballots shall be publicly broken and the packages opened by the chairman.

A card of instruction detailing the method of marking ballots and of voting and a specimen of each ballot shall be immediately posted at or in each voting shelf or compartment herein provided for; and not less than three such cards and three specimens of each ballot shall be immediately posted in conspicuous places outside the polling room.

UNIFORMS AND ORGANIZATIONS AT POLLS.

§ 82. No soldier shall go to the polling place for any purpose in uniform; nor shall any military or other organization march or go to the polling place in a body.

INSPECTORS EMPOWERED TO ADMINISTER OATHS.

§ 83. Each inspector of elections is hereby empowered to administer any oath herein provided to be administered by the inspectors of election.

PERJURY.

§ 84. Any person taking any oath herein prescribed or authorized to be administered, and willfully making oath to any false statement of fact, or willfully making a false answer to any question put to him thereunder, shall be guilty of "perjury" in the second degree.

BALLOTS.

§ 85. All elections shall be held by ballot only.

A ballot is a written or printed, or partly written and partly printed, paper containing the names of persons to be voted for and the office to be filled.

CONTENTS OF BALLOT.

§ 86. A ballot shall contain the name or names of the person or persons to be voted for; the office or offices for, and the district in which the election is being held; and the term or terms of the respective offices being voted for.

The name or names of the candidate or candidates shall be printed with the Hawaiian or English equivalent, if such there be, if the candidate shall so request the secretary in writing at the time his nomination is filed with the secretary.

A ballot shall bear no word, motto, device, sign, or symbol other than allowed herein, and shall be so printed that the type shall not show a trace on the back.

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COLOR OF BALLOTS.

§ 87. The ballots for senators shall be of blue paper and the ballots for representatives of white paper.

BALLOTS FOR SENATORS.

§ 88. The ballots used in any senatorial election district for the election of senators shall be of uniform size, weight, shape, thickness, and of the same sizing color.

Except as provided in section 56 hereof, the ballots for each senatorial district shall contain the names of all candidates for senators for such district who have been duly nominated in manner herein provided, and shall contain no other name.

BALLOTS FOR REPRESENTATIVES.

§ 89. The ballots used in any representative election district for the election of representatives shall be of uniform size, weight, shape, thickness, and of the same sizing color.

Except as provided in section 56 hereof, the ballots for each representative election district shall contain the names of all candidates for representatives for such district who have been duly nominated in manner herein provided, and shall contain no other name.

ARRANGEMENT OF NAMES OF CANDIDATES ON BALLOT.

§ 90. The names of the candidates shall be placed upon the ballot in alphabetical order.

A horizontal line shall be ruled between each name and its equivalent, if any, and the next name.

Immediately after all the names, on the right-hand side of the ballot, a vertical line shall be ruled, so that, in conjunction with said horizontal lines, a rectangular space shall be enclosed opposite each name and its equivalent, if any, of sufficient size to give ample room in which to designate the choice of the voter in the manner herein prescribed.

All of the names upon a ballot shall be placed at a uniform distance from the left-hand edge thereof and close thereto.

ENVELOPES NOT ALLOWED.

§ 91. No ballot enclosed in an envelope or wrapper of any kind shall be received or counted.

BALLOTS TO BE PRINTED BY THE GOVERNMENT.

§ 92. The ballots shall be printed by the secretary, at government expense.

There shall be sent to each precinct not less than two ballots for each name upon the register of voters at the last preceding election.

In case the boundaries of any precinct shall have been changed since the last preceding election, the number of ballots sent shall be such as shall be estimated by the secretary to be twice the number of voters in such precinct.

ARRANGEMENT OF BALLOTS.

§ 93. When printed the ballots shall be fastened together in blocks of one hundred each in such manner that each ballot may be detached and removed separately.

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They shall be forwarded by the secretary to the inspectors in sealed packages, which shall not be opened until the opening of the polls in manner herein provided.

A record of the number of ballots sent to each board of inspectors shall be kept by the secretary.

TIME OF SENDING BALLOTS TO INSPECTORS.

§ 94. The ballots, specimen ballots, and cards of instruction herein provided for shall be sent by the secretary to the several boards of inspectors so that they shall be received at least two days prior to the election.

BLANK BALLOTS.

§ 95. As soon as practicable after the appointment of the several boards of inspectors, or immediately after a special election is ordered, the secretary shall supply the several boards of inspectors with blank ballots of the paper and character and lined as required herein.

The number of such blanks shall be at least twice as many as the number of voters in the several precincts wherein the election is to take place.

In case of any miscarriage or default whereby the printed ballots herein provided for shall not be available at any precinct for use on election day, whether by reason of their not being received by the inspectors or of their destruction or loss, the inspectors of such precinct shall ascertain, by examination upon oath or otherwise, who the duly nominated candidates for such district are, and shall cause to be prepared upon such blanks and as near as may be in accordance with the directions herein contained concerning the arrangement of the names sufficient ballots for the purpose of the election.

In no case other than that named in this section shall such blanks be used; and immediately after each election the inspectors shall return all unused blanks to the secretary.

METHOD OF FOLDING BALLOT.

§ 96. Before delivering a ballot to a voter, the inspectors shall fold it twice, first across the middle so as to form a rectangle, and again in the same manner and in the same direction, and in such manner as to conceal the contents thereof.

DELIVERY OF BALLOT TO THE VOTER.

§ 97. When any duly qualified voter shall offer to vote, the chairman of inspectors shall deliver to such voter a ballot or ballots for representatives or senators, as the case may be, properly folded as herein provided.

EXPLANATION TO VOTER.

§ 98. The inspectors of election may, and upon request shall, explain to the voter the mode of voting.

METHOD OF VOTING.

§ 99. Upon receiving the ballot so folded as aforesaid, the voter receiving the same shall forthwith proceed into one of the compartments provided for the purpose, and shall then and therein mark his ballot in the manner herein prescribed.

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He shall then refold the ballot or ballots in the same folds as it or they were in when handed to him by the inspectors, and shall, without delay and without showing or in any way displaying the contents of the ballot to anyone except as provided in section 104 hereof, leave the compartment and deliver such ballot or ballots so folded to the inspector of election in charge of the ballot boxes, who shall not open or unfold the same, but shall examine the ends of the same sufficiently to be satisfied that there is but one ballot enfolded, whereupon the ballot or ballots shall be immediately dropped into the proper box or boxes by such inspector.

METHOD OF MARKING BALLOT.

§ 100. A voter shall designate his choice for senators by making a cross, thus, X, on the right-hand side of the ballot in the space or spaces provided for such purpose opposite the name or names of the candidate or candidates for whom he desires to vote.

A voter shall designate his choice for representatives by making an Arabic numeral or numerals on the right-hand side of the ballot, in the space or spaces provided for such purpose opposite the name or names of the candidate or candidates for whom he desires to vote, indicating the number of votes which he wishes to cast for such candidate or candidates.

SECRECY OF BALLOT AND INDEPENDENCE OF VOTER.

§ 101. No voter shall exhibit his ballot to any other person, nor shall any person look at or ask to see the contents of the ballot of any voter, except as provided in section 103 hereof; nor shall any person within the space set apart for a polling place attempt to influence a voter in regard to whom he shall vote for.

When a voter is in the balloting compartment for the purpose of marking his ballot no other person shall, except as provided in section 103 hereof, be allowed to enter the compartment or to be in position from which he can observe how the voter is marking his ballot.

BALLOT NOT TO BE TAKEN FROM POLLING PLACE.

§ 102. No person shall take a ballot out of the polling place; and if any person having received a ballot shall leave the polling place without first delivering the same to the inspector of election as provided herein, or shall willfully exhibit his ballot except as provided in section 103, after same shall have been marked, he shall thereby forfeit his right to vote, and the chairman of inspectors shall cause a record to be made of such proceeding.

INSPECTORS MAY ASSIST PHYSICALLY DISABLED VOTERS.

§ 103. Any voter who, by reason of blindness or other physical disability, is unable to mark his ballot, shall, if he so requests, receive the assistance of one of the inspectors in the marking thereof.

Before rendering such assistance the inspectors shall be satisfied that such physical disability exists.

SPOILED BALLOTS.

§ 104. If a voter spoils a ballot he may obtain one other upon returning the spoiled one. The ballot thus returned shall be immediately cancelled, and the reasons for such cancellation endorsed thereon and signed by the chairman of inspectors.

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COUNTING BALLOTS.

§ 105. In so far as the limits of the room in which the voting takes place shall reasonably allow, no person shall be prevented from attending the counting of the ballots on election day, unless it is necessary so to do to preserve the peace.

METHOD OF COUNTING THE BALLOTS.

§ 106. Immediately after the close of the polls the chairman of inspectors shall open the ballot box and proceed to count the votes as follows:

The whole number of ballots shall first be counted to see if their number corresponds with the number of ballots cast as recorded by the inspectors.

If there are more ballots than such record calls for, the chairman of inspectors shall replace all the ballots in the ballot box and close, lock, and shake the same so as to thoroughly mix the ballots.

The box shall then be opened and a cloth laid over it, and the chairman of inspectors, having first held up his open hand with the arm bared to his elbow, shall introduce his hand under the cloth covering the ballot box and draw therefrom, without looking, one ballot at a time, until the number of ballots in the ballot box is reduced to correspond with the number of names of voters who have voted, as recorded on the inspector's list.

The ballots so removed shall be marked immediately, before proceeding further with the count, in such manner that they can afterwards be identified and signed by the chairman of inspectors, and shall be preserved with the records.

§ 107. If the number of ballots correspond with the number of persons recorded by the inspectors as having voted, or shall be less than such number, or shall, by the means provided herein, have been made to correspond therewith, the inspectors shall then proceed to count the vote cast for each candidate.

BALLOTS TO BE REJECTED.

§ 108. If more names are voted for on a ballot than there are offices to be filled; or,

If on a ballot for representatives a larger number of votes are marked than the law authorizes; or,

If a ballot contains any mark or symbol whereby it may be identified, or any mark or symbol contrary to the provisions hereof; or,

If two or more ballots are found in the ballot box so folded together as to make it clearly evident that more than one ballot was put in by one person; or,

If a ballot in any other way be contrary to the provisions hereof, then such ballot and all it contains must be rejected.

But no ballot shall be rejected for containing a less number of names voted for than the law authorizes.

Each ballot which shall be held to be invalid as aforesaid shall be indorsed on the back by the chairman of inspectors with his name or initials and the word "rejected."

DECISIONS TO BE DELIVERED IMMEDIATELY.

§ 109. All questions as to the validity of any ballot shall be decided immediately, and the opinion of a majority of the inspectors shall be

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final and binding, subject to revision by the supreme court, as herein provided.

BALLOTS TO BE READ ALOUD.

§ 110. In counting the votes the names of the persons voted for shall be read in a loud, clear voice by one of the inspectors, and a record thereof shall be made at once by one of the inspectors.

DECLARATION OF RESULT.

§ 111. When the inspectors have ascertained the number of votes given for each candidate, they shall make public declaration of the whole number of votes cast, the names of the persons voted for, and the number of votes for each person.

The chairman of inspectors shall cause a full record to be made of the same in the inspectors' record book; one copy of such result shall be sent to the sheriff or chief sheriff, as provided herein, and one copy forwarded to the secretary.

DISPOSITION OF ELECTION RECORDS.

§ 112. At the completion of the count after the close of the polls and the public announcement of the same, the inspectors shall immediately, in the presence of the candidates or of their agents and of any voters desiring to be present, make up into a packet all of the ballots sent to the inspectors by the secretary, including all blank ballots, whether used or not, and all printed ballots used, cancelled, or rejected, together with the register of voters received from the board of registration and the list of voters and all other records appertaining to the election, except the copies of the result of the election herein directed to be sent to the sheriff or chief sheriff and to the secretary.

Such packet shall be sealed by the inspectors with their own seal or seals and the seals of such candidates or agents of candidates as may desire to seal the same.

The inspectors shall thereupon mark such packet on the outside with the name and title of the secretary and a description of the contents thereof, substantially as follows, viz:

"Records of election for ———, 18——, representative district number ——, polling precinct number ——, island of ———," and immediately forward the same to the secretary of the Territory. Such packet shall not be opened or examined except in the presence of a judge of the supreme court, and after such examination it shall be resealed in the presence of such judge.

After the next general election the ballots may be destroyed by the secretary, and the other election records opened and filed in the office of the secretary.

TABULATION OF RETURNS AND DELIVERY OF CERTIFICATE.

§ 113. Immediately upon receiving the returns of election from the several boards of inspectors of any election district, the chief sheriff or sheriff, as the case may be, shall immediately tabulate such returns and ascertain the result of the election in such district.

The number of persons to be elected receiving the highest number of votes in any election district shall be declared to be elected, and the chief sheriff or sheriff, as the case may be, shall immediately deliver to the persons elected certificates of election.

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A copy of such tabulated returns and of each certificate of election shall immediately be forwarded by the chief sheriff or sheriff, as the case may be, to the secretary. Such copy of a certificate sent to the secretary shall be considered an original.

FORM OF CERTIFICATE OF ELECTION.

§ 114. The certificate of election prescribed in the last section shall be substantially in the following form, viz:

"*Certificate of election.*

"I, ——— ———, sheriff of ——— ——— (or chief sheriff of the Territory of Hawaii, as the case may be), do hereby certify that ——— ——— was, on the —— day of ———, 18——, duly elected a (senator or representative, as the case may be) ——— for the ——— election district for a term expiring on the —— day of ———, A. D. 18——.

"Witness my hand this —— day of ———, 18——.

———— ————,

"*Sheriff of* ———

"(*or Chief Sheriff of the Territory*)."

COMPENSATION OF ELECTION OFFICERS AND EXPENSES OF ELECTION.

§ 115. The treasurer shall pay out of such appropriations as may be made by the legislature for election purposes, to the members of the board of registration, seven dollars a day of not less than six hours for each day of actual service, which shall include traveling expenses; and to the inspectors of election the sum of ten dollars each for each election held; and shall also pay the necessary expenses of preparing the polls and holding the election, which expenses shall be regulated and limited by the treasurer, and shall not include the cost of refreshments.

REGISTERING DISTRICTS AND PRECINCTS.

For the purpose of the registering of electors the following are declared to be the districts and precincts of the Territory:

FIRST DISTRICT.

PUNA, HILO, AND HAMAKUA, ISLAND OF HAWAII.

First precinct.—All the district of Puna excepting Keaau and Olaa. Voting place, Pohoiki court-house.

Second precinct.—The lands of Keaau and Olaa, in Puna, and that portion of Hilo extending from the boundary of Puna to the bed of the Honolii Gulch. Voting place, court-house in Hilo.

Third precinct.—Extending from the bed of the Honolii Gulch to the bed of the Kawainui Gulch. Voting place, Papaikou schoolhouse.

Fourth precinct.—Extending from the bed of Kawainui Gulch to the bed of the Waikaumalo Gulch. Voting place, Honomu schoolhouse.

Fifth precinct.—Extending from the bed of the Waikaumalo Gulch to the bed of the Kaula Gulch. Voting place, court-house, Laupahoehoe.

Sixth precinct.—Extending from the bed of the Kaula Gulch to the bed of the Kalopa Gulch (Kuliu Gulch). Voting place, Kaohe schoolhouse.

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Seventh precinct.—Extending from the bed of the Kalopa Gulch to the bed of the Malanahae Gulch. Voting place, Honokaa court-house.

Eighth precinct.—Extending from the bed of the Malanahae Gulch to the boundary of Kohala. Voting place, schoolhouse, Kukuihaele.

SECOND DISTRICT.

KOHALA, KONA, AND KAU, ISLAND OF HAWAII.

First precinct.—Consisting of North Kohala. Polling place, Kohala court-house.

Second precinct.—Consisting of South Kohala. Polling place, Waimea court-house.

Third precinct.—South Kohala to the north boundary of Hoolualoa. Voting place, court-house, Kailua.

Fourth precinct.—North boundary of Hoolualoa to and including Keei, South Kona. Voting place, schoolhouse, Konawaena.

Fifth precinct.—From south boundary of Keei to north boundary of Kau. Voting place, court-house, Hookena.

Sixth precinct.—From the boundary between South Kona and Kau to the westerly boundary of Punaluu. Polling place, Waiohinu court-house.

Seventh precinct.—The remainder of the district of Kau. Polling place, Pahala schoolhouse.

THIRD DISTRICT.

ISLANDS OF MAUI, MOLOKAI, AND LANAI.

First precinct.—That portion of Molokai consisting of Kalawao and Kalaupapa. Voting place, Kalaupapa storehouse.

Second precinct.—The remainder of the island of Molokai. Polling place, Pukoo court-house.

Third precinct.—The district of Lahaina and the island of Lanai. Polling place, Lahaina court-house.

Fourth precinct.—District of Kaanapali. Polling place, Honokahau schoolhouse.

Fifth precinct.—Consisting of the portion of Wailuku lying north of the sand hills, including Waihee and the island of Kahoolawe. Polling place, Wailuku court-house.

Sixth precinct.—The remaining portion of the district of Wailuku, excepting the district of Honuaula. Polling place, custom-house, Kahului.

Seventh precinct.—The district of Honuaula. Polling place, Honuaula court-house.

Eighth precinct.—All that portion of said district known as Kula, and that portion of the land of Hamakuapoko lying south and west of the Maliko Valley and mauka of a line drawn along the center of the road running from Kaluanui to the Makawao jail and a line drawn in extension thereof. Polling place, Makawao court-house.

Ninth precinct.—The remainder of the district of Makawao to the Gulch of Oopuola. Polling place, Hamakuapoko schoolhouse.

Tenth precinct.—Kahikinui, Kaupo, and Kipahulu. Polling place, schoolhouse, Kipahulu.

Eleventh precinct.—From Kipahulu to and including Makapuu. Polling place, Hana court-house.

Twelfth precinct.—District of Koolau to the Gulch of Oopuola. Polling place, schoolhouse, Keanae.

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FOURTH DISTRICT.

All that portion of the island of Oahu lying east and south of Nuuanu street and a line drawn in extension thereof from the Nuuanu Pali to Mokapu Point.

First precinct.—All that portion of said district comprised in Honolulu or Kona and lying east of Punahou street and a line drawn in extension thereof, mauka and makai. Polling place, government nursery, junction of King and Waikiki streets.

Second precinct.—All that portion of said district comprised in Honolulu or Kona and lying between the westerly boundary of the first precinct and a line drawn as follows, viz: From the foot of South street along South, King, and Alapai streets, and from the head of Alapai street to the flag pole on the old battery on Punchbowl; thence to and along the ridge on the easterly side of Pauoa Valley to the summit of the mountain. Polling place, Beretania street schoolhouse.

Third precinct.—All that portion of said district comprised in Honolulu or Kona and lying between the westerly boundary of the second precinct and Nuuanu street, and mauka of School street and a line drawn from the junction of School and Punchbowl streets to the flag pole on the old battery on Punchbowl. Polling place, building at entrance to lower reservoir grounds, Nuuanu avenue.

Fourth precinct.—All that portion of said district comprised in Honolulu or Kona and bounded by the second and third precincts, Beretania and Nuuanu streets. Polling place, Royal school.

Fifth precinct.—All that portion of said district comprised in Honolulu or Kona and bounded by the second precinct, Beretania street, Richards street, and the harbor. Polling place, Kapuaiwa building.

Sixth precinct.—All that portion of said district comprised in Honolulu or Kona and bounded by Richards street, Beretania street, Nuuanu street, and the harbor. Polling place, bell tower.

Seventh precinct.—All that portion of said district comprised in the judicial and taxation district of Koolaupoko and lying east and south of a line drawn from the Nuuanu Pali to Mokapu Point. Polling place, ———.

FIFTH DISTRICT.

All that portion of the island of Oahu lying west and north of Nuuanu street and a line drawn in extension thereof from the Nuuanu Pali to Mokapu Point.

First precinct.—All that portion of the judicial and taxation district of Koolaupoko lying west and north of a line drawn from the Nuuanu Pali to Mokapu Point. Polling place, Kaneohe court-house.

Second precinct.—The judicial and taxation district of Koolauloa. Polling place, Koolauloa court-house.

Third precinct.—The judicial and taxation district of Waialua. Polling place, Waialua court-house.

Fourth precinct.—The judicial and taxation district of Waianae. Polling place, Waianae court-house.

Fifth precinct.—All that portion of the judicial and taxation district of Ewa comprised in the lands of Hoaeae and Honouliuli. Polling place, railroad station, Ewa plantation.

Sixth precinct.—All the remaining portion of the judicial and taxation district of Ewa. Polling place, Ewa court-house.

Seventh precinct.—All that portion of Honolulu or Kona lying makai of the King street road from the Ewa line to the King street bridge,

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and all mauka of said road from the Ewa line to the main road up Kalihi Valley. Polling place, reform school premises.

Eighth precinct.—All that portion of Honolulu or Kona lying mauka of the King street road from the main road up Kalihi Valley to Liliha street, and a line drawn from the head thereof in extension of the line of Judd street, to and along the ridge forming the westerly border of Nuuanu Valley. Polling place, Hawaiian Tramways Company's building, corner Kamehameha School grounds.

Ninth precinct.—All that portion of Honolulu or Kona lying between the eighth precinct and Nuuanu street, and mauka of a line drawn along School street, the Nuuanu stream, and Beretania street. Polling place, Kauluwela schoolhouse.

Tenth precinct.—All that portion of Honolulu or Kona bounded by King, Liliha, and School streets, the Nuuanu stream, Beretania and Nuuanu streets, and the harbor. Polling place, China engine house.

SIXTH DISTRICT.

ISLANDS OF KAUAI AND NIIHAU.

First precinct.—The island of Niihau. Polling place, schoolhouse.

Second precinct.—That portion of the district of Waimea extending from the Second precinct to the Puanaaua Point. Polling place, Kekaha schoolhouse.

Third precinct.—That portion of the district of Waimea extending from Hanapepe to the boundary line between Waimea and Kekaha plantations and extending along a line in continuation of said boundary to the sea. Polling place, Waimea court-house.

Fourth precinct.—From and including Kalaheo to and including Hanapepe. Polling place, Hanapepe schoolhouse.

Fifth precinct.—The district of Koloa, from its junction with Lihue to and including the land of Lawai. Polling place, Koloa court-house.

Sixth precinct.—The district of Lihue. Polling place, Lihue court-house.

Seventh precinct.—Extending from the land of Papaa to and including the land of Wailua. Polling place, court-house, Kapaa.

Eighth precinct.—Extending from Kalihiwai River to and including the land of Papaa. Polling place, government schoolhouse, Kilauea.

Ninth precinct.—Extending from Kalihiwai River to the north boundary of the district of Waimea. Polling place, Waioli court-house.

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THE PENAL LAWS OF HAWAII.

[Matter in brackets omitted; recommended by Commission to be repealed.]

CITATION OF PENAL LAWS.

§ 1. It shall be sufficient in any charge or indictment and in any judicial proceeding to cite or refer to any section or chapter of the compilation of the penal statutes made by Sidney Miller Ballou, esq., of the Hawaiian bar, and known as "The Penal Laws of the Hawaiian Islands, 1897," as "Section (or Chapter) —— of the Penal Laws," without reference to the section or chapter of the Penal Code, Session Laws or Statutes, which may be the original enactment of the section of the penal laws cited, in all cases where the section or chapter so cited or referred to correctly sets forth and recites the original enactment. Nothing in this section shall be construed to repeal or modify any existing law or statute defining an offense or imposing a punishment or otherwise which may not be contained in said compilation.

NOTE.—This is S. L. 1898, act 24.

CHAPTER 1.

DEFINITIONS.

§ 2. The term *offense*, as used in this code, means the doing what a penal law forbids to be done, or omitting to do what it commands.

§ 3. The terms *felony* and *crime* are, within the meaning of the provisions of this code, synonymous, and mean such offenses as are punishable with death or imprisonment for a longer period than two years or by the forfeiture of any civil or political right, and also larceny. Any offense not appearing to be a felony or crime is a misdemeanor.

§ 4. Malice in respect to the commission of any offense, except in cases where it is otherwise expressly provided or plainly intended, includes not only hatred, ill-will, and desire of revenge, but cruelty of disposition or temper, and also a motive or desire of gain or advantage to the offender or another, or of doing a wrong or injury to any person or persons or to the public. It also includes the acting with a heedless, reckless disregard or gross negligence of the life or lives, the health or personal safety, or legal rights or privileges of another or others, many or few, known or unknown; also the willful violation of a legal duty or obligation and willful contravention of law.

§ 5. Each of the terms *or* and *and* has the meaning of the other or both where the subject-matter, sense, and connection require such construction.

§ 6. Words in the masculine gender signify both the masculine and feminine gender, and those in the singular or plural number signify both the singular and plural number, and words importing adults signify youths or children where, from the subject-matter, the sense, and the connection in which the words are used, such construction appears to be intended.

§ 7. Words importing persons—for instance, *another*, *others*, *any*, *any-*

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one, anybody, and the like—signify not only persons but corporations, societies, communities, assemblies, inhabitants of a district or neighborhood, or persons known or unknown, and the public generally where it appears from the subject-matter, the sense, and the connection in which such words are used that such construction is intended.

NOTE TO CHAPTER 1.

§§ 2–7 are P. C., ch. 1, unaltered.
Cases in Hawaiian Reports: Re Brito, 7 Haw., 43; R. v. Lau Chew, 8 Haw., 374; R. v. Young Hee, 10 Haw., 114.

CHAPTER 2.

GENERAL PROVISIONS.

§ 8. No person shall be subject to punishment for any offense except on due and legal conviction thereof in a court having jurisdiction of the case.

§ 9. No person shall be subject to be tried and sentenced to be punished in any court for an alleged offense unless upon indictment, except for offenses within the jurisdiction of a district court or district magistrate, or in summary proceedings for contempt.

§ 10. In the trial of any person on the charge of any offense he shall have a right to meet the witnesses who are produced against him face to face; to produce witnesses and proofs in his own favor; and by himself or his counsel to examine the witnesses produced by himself and cross-examine those produced against him; and to be heard in his defense.

§ 11. No person shall be convicted of any offense for which by law he is entitled to trial by jury, unless on confession thereof in open court, or admission thereof by his plea, or by the verdict of the jury.

§ 12. No person shall be required to answer again for an offense for which he has once been duly convicted, or of which he has been duly acquitted upon a good and sufficient indictment.

§ 13. A party accused shall be presumed innocent; and in case his guilt is not satisfactorily shown, be acquitted.

§ 14. Every one shall be presumed to intend the natural and plainly probable consequences of his acts.

§ 15. A criminal prosecution for an offense shall not destroy the right of action by the party injured thereby, unless it be expressly so provided.

§ 16. Every fine and forfeiture of property imposed as a punishment for any offense, or for a violation or neglect of any duty, where no other appropriation is expressly made, shall accrue and be appropriated to the government.

NOTE TO CHAPTER 2.

§§ 8–16 are P. C., ch. 2, unaltered.
Cases in Hawaiian Reports: R. v. Ah Hai, 7 Haw., 322; R. v. Lau Chew, 8 Haw., 376.

CHAPTER 3.

JURISDICTION.

§ 17. All persons, whether citizens of this Territory or citizens or subjects of any foreign state, government, or country, are, while within the limits of this Territory, subject to its laws, except so far as exception is made by the law of nations in respect to ambassadors or others.

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§ 18. Where an act is done or a fact or effect takes place within this Territory affecting the welfare of the Territory or the personal safety, the property or rights of any of its inhabitants, being within this Territory, any person causing, procuring, machinating, or promoting the same, or instigating another thereto, or aiding or assisting therein, is amenable to the laws of this Territory, whether he be at the time within or without its limits.

§ 19. Where the commission of an offense commenced without this Territory is consummated within it, the offender is subject to be prosecuted and punished therefor in this Territory.

§ 20. Nothing in this chapter contained shall be construed contrary to the law and usages of nations.

NOTE TO CHAPTER 3.

§§ 17–20 are P. C., ch. 3, unaltered.

CHAPTER 4.

CAPACITY AND RESPONSIBILITY.

§ 21. An infant, under seven years of age, shall be deemed incompetent to commit an offense.

§ 22. Between the ages of seven and fourteen years, competency to commit any alleged offense, and the fact that the accused acted with intelligence and understanding of the nature of the act, shall be determined by the evidence of the case without any general presumption for or against the same.

§ 23. Any person who, by reason of his idiocy or mental imbecility, is not competent to discern the nature and criminality of an act done by him, shall not be held criminally responsible for such act.

§ 24. Any person acting under mental derangement, rendering him incompetent to discern the nature and criminality of an act done by him, shall not be subject to punishment therefor: Provided, however, That if any such person, while capable of discerning the nature and criminality of any act, entertained the intent to do the same, and subsequently does it in pursuance and execution of such intent, he shall be held responsible therefor, though the same be done in such state of mental derangement; and so also if any person voluntarily or heedlessly induce the mental derangement by intoxication or otherwise.

§ 25. No person shall be held criminally responsible for any act to the doing of which he is compelled by force which he can not resist, or from which he can not escape: Provided, however, That no compulsion shall be presumed without evidence; and no one shall be able to justify himself against a charge of his doing an injury to another by showing the threat or imminent danger of an equal or less injury to himself.

NOTE TO CHAPTER 4.

§§ 21–25 are P. C., ch. 4, unaltered.
Case in Hawaiian Reports: Day v. Day, 8 Haw., 720.

CHAPTER 5.

PRINCIPALS AND ACCESSORIES.

§ 26. All who take part in the commission of any offense, or, being present, aid, incite, countenance, or encourage others in the commission thereof, shall be deemed principals therein.

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§ 27. Any person who, not himself being present at the commission of an offense, abets another in the commission thereof, or procures, counsels, incites, commands, or hires another to commit the same, which such other thereupon in pursuance thereof commits, is an accessory before the fact to the commission of such offense.

§ 28. Every person who aids in the commission of an offense, or is accessory before the fact thereto, is guilty of such offense, and shall be subject to punishment therefor, in the same manner and to the same effect as if he had been present at the commission thereof and actually taken part therein.

NOTE TO CHAPTER 5.

§§ 26-28 are P. C., ch. 5, unaltered.
Accessories after the fact, see P. L., ch. 45.
Cases in Hawaiian Reports: 7 Haw., 562; Hang Fook v. Govt., 9 Haw., 594; Govt. v. Oishi, 9 Haw., 645.

[*CHAPTER 6.*]

[§§ 29–36.]

CHAPTER 7.

HOMICIDAL OFFENSES.

§ 37. Murder is the killing of any human being with malice aforethought, without authority, justification, or extenuation by law, and is of two degrees, the first and second, which shall be found by the jury.

§ 38. When the act of killing another is proved, malice aforethought shall be presumed and the burthen shall rest upon the party who committed the killing to show that it did not exist, or a legal justification or extenuation therefor.

§ 39. Murder committed with deliberate premeditated malice aforethought, or in the commission of or attempt to commit any crime punishable with death, or committed with extreme atrocity or cruelty, is murder in the first degree.

§ 40. Murder not appearing to be in the first degree is murder in the second degree.

§ 41. Whoever is guilty of murder in the first degree shall suffer the punishment of death.

§ 42. Whoever is guilty of murder in the second degree shall be punished by imprisonment at hard labor for life, or for a term of years not less than twenty, in the discretion of the court.

§ 43. In every case of sentence to punishment by death the court may, in their discretion, order the body of the convict to be dissected, and the marshal in such case shall deliver the dead body to any surgeon who may wish to have the body for dissection.

§ 44. Whoever kills a human being without malice aforethought, and without authority, justification, or extenuation by law, is guilty of the offense of manslaughter.

§ 45. Manslaughter is of three degrees, and the jury under an indictment for murder or manslaughter may return a verdict of manslaughter in either degree, or of assault and battery, as the facts proved will warrant.

§ 46. Whoever is guilty of manslaughter in the first degree shall be punished by imprisonment at hard labor for a term of years not less than ten nor more than twenty, in the discretion of the court.

§ 47. Whoever is guilty of manslaughter in the second degree shall

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be punished by imprisonment at hard labor not more than ten years or less than five years.

§ 48. Whoever is guilty of manslaughter in the third degree shall be punished by imprisonment at hard labor not more than five years, or by a fine not more than one thousand dollars, in the discretion of the court.

§ 49. Whoever, under an indictment for murder or manslaughter, shall be found guilty of assault and battery, as provided in section 45, shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding five hundred dollars, in the discretion of the court.

§ 50. No person shall be adjudged to have killed another unless death ensues within a year and a day from the injury inflicted.

NOTE TO CHAPTER 7.

§§ 37–41 are S. L. 1890, ch. 71. § 42 is S. L. 1892, ch. 29. §§ 43–50 are P. C., ch. 7, §§ 4–11.

Cases in Hawaiian Reports: R. v. Tin Ah Chin, 3 Haw., 90; R. v. Keanu, 5 Haw., 173; R. v. Bridges, 5 Haw., 467; K. v. Ahop, 7 Haw., 556; R. v. Wo Sow, 7 Haw., 734; R. v. Akana, 7 Haw., 549; R. v. Lau Kin Chew, 8 Haw., 370; Govt. v. Hering, 9 Haw., 184; Govt. v. Caecires, 9 Haw., 522.

CHAPTER 8.

DUELLING.

§ 51. Whoever shall kill another in a duel fought in pursuance of an appointment with, or with the assent of the party killed, shall be adjudged guilty of manslaughter in the first degree, and suffer the punishment prescribed for that offense by the laws of this Territory.

§ 52. Any person who shall engage in a duel with any deadly weapon, although no homicide shall ensue, or shall challenge another to fight such duel, or shall send or deliver any written or verbal message purporting or intended to be such challenge, although no duel shall ensue, shall be punished by a fine not exceeding one thousand dollars, and shall be incapable of holding any office or place of honor, profit, or trust under the constitution or laws of this Territory.

§ 53. Any person who shall accept any such challenge or who shall knowingly carry or deliver any such challenge or message, whether a duel ensue or not, and any person who shall be present at the fighting of a duel that is fought with deadly weapons, as an aid, second, or surgeon, or who shall advise, encourage, or promote such duel, shall be punished by a fine not exceeding five hundred dollars and incapacitated as mentioned in the preceding section for the term of ten years after the conviction of such offense.

§ 54. Any person who shall post another, or in writing or print use any reproachful or contemptuous language to or concerning another for not fighting a duel or for not sending or accepting a challenge, shall be punished by a fine not exceeding two hundred and fifty dollars.

NOTE TO CHAPTER 8.

§§ 51–54 are P. C. ch. 8, unaltered.

CHAPTER 9.

ASSAULT AND BATTERY.

§ 55. An assault is a malicious attempt forcibly to do a corporal injury to another without authority or justification by law.

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§ 56. A battery, or an assault and battery, is the malicious and forcible infliction of a corporal injury on another without authority or justification by law.

§ 57. Whoever with malicious attempt to maim or disfigure or mutilate shall cut out or maim the tongue, put out or destroy an eye, cut or tear off an ear, cut or slit or mutilate the nose or lip, or destroy or disable any limb, member, or bodily organ of another shall be punished by a fine not exceeding one thousand dollars and imprisonment at hard labor not exceeding ten years.

§ 58. Whoever shall assault another with intent to murder, or to maim or disfigure his person in any of the ways mentioned in the preceding section, shall be judged guilty of assault in the first degree, and shall be punished by a fine not exceeding one thousand dollars and imprisonment at hard labor not more than five years.

§ 59. Whoever being armed with a dangerous weapon shall assault another with intent to commit burglary, robbery, manslaughter, or murder, or other crime of such character, shall be punished by a fine not exceeding one thousand dollars and imprisonment at hard labor not more than ten years.

§ 60. Whoever not being armed with a dangerous weapon shall assault another with force and violence with intent to commit burglary, robbery, or theft shall be punished by a fine not to exceed five hundred dollars and imprisonment at hard labor not to exceed five years.

§ 61. Whoever shall commit an assault, or an assault and battery, on any public officer, civil or judicial, with intent to resist, prevent, hinder, or obstruct him in the discharge or execution of his duty as such, shall be punished by a fine not exceeding one thousand dollars or by imprisonment at hard labor not more than two years.

§ 62. Whoever shall commit an assault, or an assault and battery, on another with a knife, sword cane, or any other weapon obviously and imminently dangerous to life shall be punished by a fine not exceeding one thousand dollars or by imprisonment at hard labor not more than two years.

§ 63. Whoever inflicts a slight corporal injury upon another, as by striking him with his fist, spitting in his face, inciting and causing a dog to bite him, or any injury of a like gravity, however slight, is guilty of an assault and battery, and shall be punished by a fine of not more than one hundred dollars or by imprisonment at hard labor not more than six months, in the discretion of the court.

§ 64. If any person assault, strike, wound, imprison, or in any other manner infract the law of nations by offering violence to the person of a public minister, such person so offending, on conviction, shall be imprisoned not exceeding five years and fined, at the discretion of the court, and, if an officer of this government, shall be liable to removal from office.

§ 64A. Upon the trial of any person charged with any offense enumerated in sections 55–64, he may be found guilty of any offense necessarily included in that with which he is charged, as the facts proved will warrant.

[§§ 65–67.]

FOOT BINDING.

§ 68. Every person who without authority or justification by law shall injure, distort, or deform the feet of any female child under the age of eighteen years shall be punished by a fine not exceeding five hundred dollars or by imprisonment at hard labor not exceeding two years.

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§ 69. No person shall be disqualified from testifying concerning any offense committed under section 68 on the ground that his testimony might criminate himself; but he shall not be prosecuted for any matter in respect of which he shall have testified.

NOTE TO CHAPTER 9.

§§ 55-57 are P. C., Ch. 9, §§ 1-3. § 58 is S. L. 1898, act 20. §§ 59-60 are P, C., Ch. 9, §§ 5-6. § 61 is S. L. 1896, act 34. § 62 is S. L. 1896, act 37. § 63 is S. L. 1874, Ch. 15, C. L. p. 559. § 64 is P. C., Ch. 9, § 10. § 64A is S. L. 1898, act 6. §§ 68-69 are S. L. 1896, act 44.

Cases in Hawaiian Reports: R. v. Howard, 1 Haw., 40; Irwin v. Porter, 1 Haw., 93; Coffin v. Spencer, 2 Haw., 23; Burrmeister v. Leyer, 2 Haw., 255; R. v. Young Quai, 8 Haw., 282; R. v. Ah Lum, 8 Haw., 377; Re Titcomb, 9 Haw., 131; Gov't v. Gallagher, 9 Haw., 588; Gov't v. Pahia, 9 Haw., 604; R. v. Li Shai, 10 Haw., 262.

CHAPTER 10.

KIDNAPPING—UNLAWFUL IMPRISONMENT AND CHILD STEALING.

§ 70. Whoever kidnaps, that is, forcibly or fraudulently and deceitfully, and without authority by law, imprisons, seizes, detains, or inveigles away any person, with intent to cause such person to be secreted within this Territory against his will, or sent out of this Territory against his will, or sold or held as a slave, shall be punished by a fine not exceeding one thousand dollars and be imprisoned at hard labor not more than two years.

§ 71. Whoever maliciously, without authority by law, imprisons another, or causes anyone to be imprisoned, such imprisonment not appearing to be kidnapping, shall be punished by imprisonment at hard labor not exceeding one year or by a fine not exceeding two hundred dollars.

§ 72. In the trial of any person for kidnapping or unlawful imprisonment, any alleged assent of the person charged to have been kidnapped or unlawfully imprisoned shall be presumed to have been obtained by fraud or extorted by duress or threats, and shall, unless such presumption shall be rebutted by satisfactory proof to the contrary thereof, be null and of no avail in defense against the charge of such offense.

§ 73. Whoever is guilty of child stealing, that is, maliciously, by fraud, force, or deception, conveying, leading, inveigling, taking, decoying, or enticing away, or detaining or concealing any child under the age of eighteen years, with intent to deprive its parent or guardian, or any person having lawful charge of it, of the custody and control of such child, or with intent to steal any article upon or about the person of such child, shall be punished by imprisonment at hard labor not more than two years or by fine not exceeding five hundred dollars, or both, in the discretion of the court.

§ 74. Whoever receives or harbors any such child, knowing the same to be stolen, with the intent specified in the preceding section, shall be subject to like punishment as for child stealing.

§ 75. The two preceding sections are not applicable to the case where one obtains, detains, or receives a child from motives of humanity, to protect it from cruelty, or save it from suffering, or in good faith as being the legal parent, guardian, or master, and entitled by law to the custody of any child, and for the purpose of asserting and vindicating such right, or as being the reputed father of such child, the same being illegitimate; but the right to the custody of the child shall, nevertheless, in either such case, be subject to be determined by the courts or judges upon the institution of suitable legal proceedings between the parties.

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NOTE TO CHAPTER 10.

§§ 70-75 are P. C., ch. 10, unaltered.
Cases in Hawaiian Reports: Alau v. Everett, 7 Haw., 82; Congdon v. Ackerman, 7 Haw., 569.

CHAPTER 11.

RAPE—SEDUCTION—ABDUCTION.

§ 76. Whoever commits a rape, that is, ravishes, or has carnal intercourse with any female, by force and against her will, shall be punished by a fine not exceeding one thousand dollars and imprisonment at hard labor for life or any number of years.

§ 77. Whoever ravishes or carnally abuses and knows any female child under the age of ten years shall suffer the punishment of death or imprisonment for life at hard labor, in the discretion of the court.

§ 78. Whoever maliciously assaults any female with the intent to commit the crime of rape, or maliciously assaults any female child under the age of ten years, shall be punished by fine not exceeding one thousand dollars and imprisonment at hard labor for not more than five years.

§ 79. Whoever commits the offense of abduction, that is, by force or deception takes or entices away or detains any female, with intent to marry or to carnally defile her, or cause her to be married or carnally defiled, without her consent given previously to her being so taken or enticed away or detained, shall be punished by a fine not to exceed five hundred dollars and imprisonment at hard labor not more than three years.

§ 80. If the female so abducted be a child under ten years of age, such abduction shall be conclusively presumed to be by force and without her consent and against her will.

§ 81. Whoever, by conspiracy or by willful falsehood or deceit, or under promise of marriage, seduces, causes, or procures any unmarried female to commit fornication shall be punished by a fine not exceeding one thousand dollars or by imprisonment at hard labor not more than two years. Provided, however, that in case the parties to such fornication subsequently legally intermarry together the above penalty shall not thereupon be inflicted.

§ 82. The female upon whom rape is alleged to have been committed, or who is alleged to have been abducted or seduced, is a competent witness in a prosecution for such rape, abduction, or seduction; but no person shall be convicted of rape, seduction, or abduction upon the mere testimony of such female, uncorroborated by other evidence, direct or circumstantial.

NOTE TO CHAPTER 11.

§§ 76-80 are P. C., ch. 11, § 1-5. § 81 is S. L. 1888, ch. 32. § 82 is P. C., ch. 11, § 7.
Cases in Hawaiian Reports: Woodward v. Rep., 10 Haw., 416; R. v. Ah Wong, 10 Haw., 524; Re Hoopai, 10 Haw., 610.

CHAPTER 12.

CAUSING ABORTION—CONCEALING THE DEATH OF AN INFANT.

The causing of abortions has from ancient times been a great sin in this land: Therefore, it is hereby enacted:

§ 83. Whoever maliciously, without lawful justification, administers, or causes or procures to be administered, any poison or noxious thing

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to a woman when with child, in order to produce her miscarriage, or maliciously uses any instrument or other means with like intent, shall, if such woman be then quick with child, be punished by a fine not exceeding one thousand dollars and imprisonment at hard labor not more than five years. And if she be then not quick with child, shall be punished by a fine not exceeding five hundred dollars and imprisonment at hard labor not more than two years.

§ 84. Where means of causing abortion are used for the purpose of saving the life of the woman, the surgeon or other person using such means is lawfully justified.

§ 85. If any woman conceals the death of any issue of her body, whether born alive or not, which, if born alive, would have been a bastard, so that it may not be known whether such issue was born alive or not, or whether it was murdered, she shall be punished by fine not exceeding one hundred dollars and imprisonment at hard labor not more than two years.

NOTE TO CHAPTER 12.

§§ 83–85 are P. C., ch. 12, unaltered.

CHAPTER 13.

POLYGAMY—ADULTERY—FORNICATION—INCEST—SODOMY—PROCURING.

§ 86. Every married person who marries another husband or wife within this Territory, or having married another husband or wife out of this Territory, cohabits with such other husband or wife within this Territory, is guilty of polygamy and shall be punished by a fine not exceeding five hundred dollars and imprisonment at hard labor not exceeding two years.

§ 87. A married person within the meaning of this chapter is one having a husband or wife living.

§ 88. A person whose husband or wife has been continually remaining beyond sea, or having voluntarily withdrawn himself or herself, has remained absent for the space of four years, and not been known by him or her to be living, shall not be considered a married person within the meaning of this law; neither shall a person who has been legally divorced from the bond of matrimony be subject thereto, in case his or her crime or misconduct was not the occasion of the divorce.

§ 89. Sexual intercourse between a man, married or unmarried, and a married woman not his wife is adultery by each; and between a married man and an unmarried woman is adultery by each.

§ 90. Every man who commits adultery shall be punished by a fine not exceeding one hundred nor less than thirty dollars, or by imprisonment at hard labor not more than twelve nor less than three months, or by both fine and imprisonment within the aforementioned limits, in the discretion of the court; and every woman who commits adultery shall be punished by a fine not exceeding thirty nor less than ten dollars, or imprisonment at hard labor not more than four nor less than two months, in the discretion of the court.

§ 91. Fornication is sexual intercourse between an unmarried man and an unmarried woman. Whoever is guilty of the same shall be punished by a fine not exceeding fifty nor less than fifteen dollars, or by imprisonment at hard labor not more than three months nor less than one month, in the discretion of the court. But if they shall law-

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fully marry, with the consent of their parents, then the above penalty shall not be imposed.

§ 92. Illicit cohabitation shall hereafter be punished as adultery.

§ 93. Any man or woman who is guilty of lewd conversation, lascivious conduct, or libidinous solicitations shall be punished by a fine not less than two nor more than ten dollars or by imprisonment at hard labor not exceeding ten days.

§ 94. Whoever shall be convicted before any district magistrate of the Territory of having sexual or carnal intercourse with any female of this Territory under the age of fourteen years shall be imprisoned at hard labor for any term not less than three nor more than eighteen months, in the discretion of the court.

§ 95. Persons within the degrees of consanguinity or affinity within which marriage is prohibited who intermarry with each other, or commit an act of sexual intercourse with each other, are guilty of incest, and shall be punished by fine not exceeding five hundred dollars or by imprisonment at hard labor for not more than ten years.

§ 96. Whoever commits sodomy, that is, the crime against nature, either with mankind or any beast, shall be punished by a fine not exceeding one thousand dollars and by imprisonment at hard labor not more than twenty years.

§ 97. No woman shall be charged with or convicted of the offense of adultery or fornication because she is found pregnant or has given birth to a child.

§ 98. If any persons, after being divorced for any cause whatever, shall cohabit as husband and wife, they shall be liable to all the penalties provided by the laws against adultery.

§ 99. Whenever, in any case of criminal conversation or seduction, an action at law for the recovery of damages shall be instituted by any party entitled to maintain such action, then and in that case the woman who may have been the subject of such criminal conversation or seduction shall not be liable to be prosecuted criminally for adultery or fornication under the provisions of this chapter.

§ 100. Any person who shall in any manner solicit, or be privy to or aid or abet in the soliciting, of another to unlawful sexual intercourse; or to attend at any place where immoral dances, plays, or any indecent entertainment is being given; or to go to or attend at any place where a prostitute resides or carries on her business, or where prostitutes are generally known to congregate and assemble; or shall exhibit any writing, sign, character, or in any other manner indicate and advertise the business or calling of a prostitute; or do any other thing tending to allure and tempt another to go to or attend at any of the places indicated in sections 100 and 101; or shall lead, conduct, or drive any person to such place, or act as guide or conductor for that purpose, or for any of the purposes herein specified; or shall procure any prostitute for any person, whether such prostitute shall be actually taken to or conducted to such person or not, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not more than five hundred dollars or be imprisoned at hard labor not over one year, and if such person be a licensed driver, such license shall also be forfeited and he shall not thereafter be licensed to drive for two years.

§ 101. In cases arising under section 100, the magistrate or judge hearing the same may receive as evidence the fact that the person charged has no visible lawful means or insufficient lawful means of support, and is commonly about or in houses of prostitution, or in other places mentioned in section 100 hereof; or that in connection

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with proof of committing any act forbidden hereby, such person is known to the police to be idle, vicious, and one who requires police surveillance.

NOTE TO CHAPTER 13.

§§ 86–99 are P. C., ch. 13, §§ 1–14. §§ 100–101 are S. L., 1896, act 18.
Cases in Hawaiian Reports: R. v. Kalailoa, 4 Haw., 39; Pahoa v. Haupu, 4 Haw., 158; Est. Gordon, 6 Haw., 290; Gov't v. Kamakauila, 9 Haw., 607; R. v. Kuhia, 10 Haw., 440; R. v. Waipa, 10 Haw., 442; R. v. Parsons, 10 Haw., 601.

CHAPTER 14.

BURGLARY.

§ 102. Whoever by night or day breaks and enters the dwelling house, room, building, store, mill, warehouse, outhouse, or vessel of another, with intent to commit a felony therein, is guilty of burglary.

§ 103. Breaking is actual or constructive.

Actual breaking includes opening a door or window that is closed; constructive breaking is where entry is obtained by violence or threats of violence to the inmates or their property, or by fraud or by the aid of an accomplice.

§ 104. It is essential to burglary that there should be an entry, which may be made by introducing the hand, foot, finger, or any part of the body into the house or any apartment thereof entered; or by discharging or throwing any missile, or introducing any instrument or any part thereof into the same; provided, that the missile or instrument be used as a means of committing or attempting to commit a felony, and not merely as a means of breaking.

§ 105. Burglary is of two degrees, first and second.

Burglary committed in the nighttime, or committed by one armed with a deadly weapon, or committed when any person having a right to be there is within the place burglarized, is burglary in the first degree; all other burglary is in the second degree.

§ 106. Whoever is convicted of burglary in the first degree shall be punished by imprisonment at hard labor for life or any number of years. Whoever is convicted of burglary in the second degree shall be punished by imprisonment at hard labor not more than twenty years.

NOTE TO CHAPTER 14.

§§ 102–106 are S. L. 1896, act 38, repealing P. C., ch. 14.
Cases in Hawaiian Reports: R. v. Hulu, 3 Haw., 82; R. v. Asina, 3 Haw., 474; Re Rhodus, 6 Haw., 345; R. v. Ah Cheon, 10 Haw., 469; R. v. Naone, 2 Haw., 746; R. v. Asina, 4 Haw., 474.

CHAPTER 15.

ROBBERY.

§ 107. Robbery is the stealing of a thing from the person of another or from his custody in his presence by force or putting him in fear.

§ 108. In order to constitute robbery, the force must be used, or the fear excited or taken advantage of, to prevent or overcome resistance, or to prevent or hinder the escape of the party robbed, or to prevent the conveying away, securing, or guarding the subject of the larceny from being taken, or to induce the party robbed to surrender the same, or to prevent detection of the crime.

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§ 109. Though the taking be by force, yet if it be not with intent to steal, it is not robbery.

§ 110. The taking of a thing from another by means of forcibly imprisoning him, or forcibly putting him under personal restraint or duress until he shall surrender the same, is robbery.

§ 111. In order to render the taking through fear, where no violence is used, a robbery, it is requisite that the ground of fear should be adequate and not merely trivial and frivolous.

§ 112. An adequate cause of fear is such as would, under the same circumstances, cause fear in a person of ordinary firmness of like age, sex, and state of health, and induce such a person to part with property to avoid the apprehended injury or danger; or such as the taker of the thing believes or has reason to believe will cause, and such as does in fact cause, such degree of fear.

§ 113. Whether the robber obtains the thing stolen through the influence of fear excited by words, menacing gesture, the presenting a weapon, or other act causing fear, it will equally in either case be robbery.

§ 114. Robbery by one armed with a dangerous weapon with intent, if resisted, to kill, maim, wound, or inflict other severe corporal injury upon the person robbed; or where, being so armed, the robber in committing the offense wounds, or strikes, or inflicts other severe injury upon the person robbed, or any other person, is robbery in the first degree; and all other robbery is such in the second degree.

§ 115. Any person committing a robbery, being armed with a dangerous weapon, shall be presumed to be so armed with the intent specified in the preceding section.

§ 116. Whoever commits robbery in the first degree shall be punished by imprisonment at hard labor for life or any number of years, in the discretion of the court.

§ 117. Whoever commits robbery in the second degree shall be punished by imprisonment at hard labor not more than twenty years.

NOTE TO CHAPTER 15.

§§ 107–117 are P. C., ch. 15, unaltered.

Cases in Hawaiian Reports: Re Rhodus, 6 Haw., 343; Gov't v. Hapa, 9 Haw., 622; R. v. Ah Cheon, 10 Haw., 469.

CHAPTER 16.

LARCENY.

§ 118. Larceny or theft is the feloniously taking any thing of marketable, salable, assignable, or available value belonging to or being the property of another.

§ 119. It is enough if the thing taken is of any pecuniary value, or valuable or economical utility, though it be not of any value to sell.

§ 120. In order to be the subject of larceny a thing must be movable or such that it can be removed.

§ 121. Any part of real estate that is movable or can be detached, severed, separated, or removed from the real estate of which it is a part may be the subject of larceny.

§ 122. In order to be the subject of larceny a thing must be the subject of property and possession.

§ 123. Domestic animals of value are the subjects of larceny, though not at the time within the actual keeping or control of the owner, or of

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anyone for him. For instance, estrays and cattle ranging the commons or mountains of the islands.

§ 124. Animals, whether those living in air, or aquatic or amphibious, of species not usually domesticated, are subjects of larceny when in the custody, possession, and control of the owner, or of anyone for him, and are distinguishable as being, or known by the taker to be, so in the owner's possession, custody, or control. For instance, fish in ponds, or particular creeks or portions of the sea, doves in a dovecot.

§ 125. Any writing of value may be the subject of larceny. For instance, a promissory note, bill of exchange, or other bill, order, certificate, bond, book of accounts; a deed or any written or printed conveyance of land; any award of the land commission, or other evidence of title to real or personal property; any contract remaining in force; a receipt, discharge, writ or process; any commission conferring a right, privilege, claim, or liability upon another; a record or journal of the acts or proceedings of any judicial court, court of impeachment, or of the legislature, or any public corporation; or any record of any public office.

§ 126. Where no one can be benefited by a writing, and no one has any interest in it or depending upon it, or can be subject to liability by its passing into other hands or being destroyed, it is not a subject of larceny.

§ 127. The value of a writing is not necessarily to be considered to be the amount expressed or imported by the writing itself, but should be determined by its importance, materiality, and availability as affecting public or individual interests.

§ 128. In order to be the subject or larceny, a thing must be owned by, or be the property, general or special, of, or belonging to, some one. That is, some one must have a property, general or special, in the thing; or have and be entitled to the possession of the thing.

§ 129. Wrecked property, estrays, and lost property shall be deemed still in the constructive possession of the owner; and the taking of either of them, with felonious intent, is larceny. But the taking of derelict property is not larceny.

§ 130. It is not necessary, in respect to larceny, that it should appear whose property, other than the taker's, the thing is; it is enough that it appear that it is not the taker's, and that it does not appear to be derelict; and in case of doubt whether a thing is derelict, the presumption is that it is not so.

§ 131. Larceny can not be committed by the husband from the wife of her property, or by the wife from the husband of his property.

§ 132. Larceny is of two degrees, first and second. Larceny of property of the value of more than one hundred dollars is in the first degree, and shall be punished by imprisonment at hard labor not more than ten years.

All other larceny is in the second degree, and shall be punished by imprisonment at hard labor not more than two years, or by a fine not exceeding one thousand dollars.

§ 133. Whoever shall be convicted of three or more larcenies at the same session of any court; or whoever, having been convicted of a larceny, shall be again convicted of a larceny committed after such former conviction, shall receive an additional punishment not exceeding that otherwise provided by law for the offense or offenses of which he is so convicted, by more than one-half.

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NOTE TO CHAPTER 16.

§§ 118–131 are P. C., ch. 16, §§ 1–14. § 132 is S. L. 1896, act 25. § 133 is P. C., ch. 16, §16.

Cases in Hawaiian Reports: Koa v. Kaahanui, 6 Haw., 168; R. v. McGiffin, 7 Haw., 104; R. v. Chop Tin, 7 Haw., 383; R. v. Mahelona, 7 Haw., 392; R. v. Haumea, 8 Haw., 280; Govt. v. Machado, 9 Haw., 221; Govt. v. Mura, 9 Haw., 428; R. v. Pahu, 10 Haw., 74; R. v. Kahoohanohano, 10 Haw., 97; R. v. Ah Ping, 10 Haw., 459; R. v. Ah Cheon, 10 Haw., 469; R. v. Naone, 2 Haw., 746; R. v. Asina, 3 Haw., 474; R. v. Ikeole, 4 Haw., 413; R. v. Ah Fong, 4 Haw., 621.

[*CHAPTER 17.*]

[§§ 134–156.]

CHAPTER 18.

EMBEZZLEMENT.

§ 157. If any person who is entrusted with, or has the possession, control, custody or keeping of a thing of value of another by the consent or authority, direct or indirect, of such other, without the consent and against the will of the owner, fraudulently converts or disposes of the same, or attempts so to convert or dispose of the same, to his own use and benefit, or to the use and benefit of another than the owner or person entitled thereto, he is guilty of the embezzlement of such thing.

§ 158. Whoever, being a minister, collector, cashier, clerk, or other person employed in the government treasury, or any other branch of the treasury department, or in any other department of the government, is guilty of embezzlement of any money, note, or other effects or property belonging to the Government, shall be punished by imprisonment at hard labor for life or any number of years, or by fine not exceeding five times the value of the thing or property embezzled.

§ 159. Whoever is guilty of embezzlement, other than is specified in the preceding section, if it be to the amount of one hundred dollars or more, shall be punished by imprisonment at hard labor not more than ten years, or by fine not exceeding five times the value of the property or thing embezzled; if it be to the amount of twenty dollars and less than one hundred, he shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding three hundred dollars; and if it be to an amount less than twenty dollars, he shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding fifty dollars.

§ 160. Where the person convicted of embezzlement is under sixteen years of age, the court shall have the power to mitigate the punishment specified for the offense of which he is guilty, always having due regard to the welfare of the community of which the offender is a member.

NOTE TO CHAPTER 18.

§§ 157–160 are P. C., ch. 18, unaltered.

Cases in Hawaiian Reports: Rex v. Swinton, 1 Haw., 55; King v. Chock Hoon, 5 Haw., 372; Extradition of McCarthy, 5 Haw., 573; Govt. v. Len Tai, 9 Haw., 73; R. v. Ah Cheon, 10 Haw., 469; P. G. v. Mossman, 9 Haw., 360.

CHAPTER 19.

EXTORTION.

§ 161. Extortion is the wresting anything of value from another by duress, menaces, or by an undue exercise of power.

§ 162. Whoever commits extortion by charging or threatening to

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charge another or any person in whom he is specially interested by reason of marriage, relationship, guardianship, friendship, or other tie, with any crime, is, in case such crime be capital, or subject to punishment by imprisonment for five years or more, guilty of extortion in the first degree; in case it be an offense of a lower grade, he is guilty of extortion in the second degree.

§ 163. In prosecutions under the preceding section, no evidence of the guilt or innocence of the party against whom the extortion is practiced, is admissible.

§ 164. Whoever commits extortion by threatening to charge or impute any secret deformity or disease to him or any person in whom he is specially interested as aforesaid, is guilty of extortion in the second degree.

§ 165. Whoever commits extortion by threatening, directly or indirectly, by words, signs, or acts, to burn, destroy, waste, deface, or injure his property, real or personal, or that of another in whom he is specially interested, or to do him or such other any malicious injury, is guilty of extortion in the second degree.

§ 166. Whoever by violence, duress, or other threats, as aforesaid, compels or induces another to sign or execute, or to confess or acknowledge the signature or execution of any deed, note, or other writing, which, if voluntarily made, would affect the rights and interests of the maker and signor thereof, with intent to avail himself of such writing, or enable any other person to avail himself thereof, as being valid, shall be subject to the punishment hereinafter prescribed for extortion in the second degree.

§ 167. Whoever, being a public officer of any description, civil, judicial, military, or other, by color of his office, willfully and corruptly extorts from another for his own benefit and profit any thing of value, knowing that he has not any legal authority or right to exact the same, is guilty of extortion in the second degree.

§ 168. Whoever is guilty of extortion in the first degree, shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding one thousand dollars.

§ 169. Whoever is guilty of extortion in the second degree, shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding one thousand dollars.

NOTE TO CHAPTER 19.

§§ 161–169 are P. C., ch. 19, unaltered.
Cases in Hawaiian Reports: R. v. Thornton, 9 Haw., 45.

CHAPTER 20.

RECEIVING STOLEN GOODS.

§ 170. The receiving of stolen goods is, in contract or otherwise, the fraudulently taking, accepting of, detaining, keeping, concealing, or disposing of, the goods of another, stolen, embezzled, or illegally extorted by any one, or aiding therein, whether the same was so stolen, embezzled, or so extorted within or without this Territory.

§ 171. It is not requisite, in order to constitute the offense of receiving stolen goods, that the receiver should intend any profit or benefit to himself.

§ 172. Whoever without fraud obtains possession or control of goods knowing them to be stolen, and afterwards fraudulently detains, keeps,

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conceals, or disposes of the same, or aids therein, with the intent that the same shall not be restored to the owner, but that the owner shall be deprived and despoiled thereof, or of the benefit thereof, is guilty of the offense of receiving stolen goods.

§ 173. Receiving any specific part of the same thing that is stolen is receiving stolen goods; as, for example, a part of the carcass of a stolen animal, or a piece of a machine, broken in pieces after being stolen.

§ 174. Whoever is guilty of receiving stolen goods to the amount of one hundred dollars or more shall be punished by imprisonment at hard labor not more than five years, and by a fine not exceeding five hundred dollars; and if it be to an amount less than one hundred dollars, he shall be punished by imprisonment at hard labor not more than two years, and by fine not exceeding one hundred dollars; provided, however, if this is the first offense, and the convict shall make satisfaction to the party injured to the full value of the property, he shall not be subject to punishment by imprisonment for such offense.

§ 175. If any person is convicted of receiving stolen goods, after having been previously convicted of such offense, or is convicted at the same term of the court of three or more distinct acts of receiving stolen goods, he is a common receiver of stolen goods, and shall be punished by imprisonment at hard labor not more than ten years, and by fine not exceeding one thousand dollars.

§ 176. In any prosecution for receiving stolen goods it shall not be necessary to aver, nor on the trial to prove, that the person who stole the goods has been convicted.

NOTE TO CHAPTER 20.

§§ 170-176 are P. C. ch. 20, unaltered
Cases in Hawaiian Reports: R. v. Ah Cheon, 10 Haw., 469.

CHAPTER 21.

GROSS CHEATS.

§ 177. Whoever shall designedly, by any false pretense and with intent to defraud, obtain from another any money, goods, or other thing of value, is guilty of a gross cheat. For example, the obtaining of money or other property from another under false pretense of being sent for the same by a friend or acquaintance of his, or obtaining money by means of a letter fabricated in the name of another.

§ 178. Whoever shall, by any false pretense and with intent to defraud, obtain the signature of any person to any written instrument, the false making whereof would be punishable as forgery, is guilty of a gross cheat. For example, by falsely reading a promissory note or other pecuniary obligation, with intent to procure the same to be designed by a person unable to read.

§ 179. Whoever, in the sale or purchase of any merchandise or other property, shall use any false weight or measure, or cheat another by the fraudulent use of any legal weight or measure, as, for example, by dexterously sliding a yardstick, or by putting some other thing into a measure partly to fill the same, even though the vendee and vendor be present, is guilty of a gross cheat.

§ 180. Whoever shall knowingly sell any kind of diseased, corrupted, or unwholesome provisions for the food of man, without making the same fully known to the buyer, is guilty of a gross cheat.

§ 181. Whoever shall knowingly compound, prepare, or adulterate

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any substance intended for food, drink, or medicine for man with any ingredient or matter so as to render such food, drink, or medicine injurious to health, or knowingly procure such substance to be compounded, prepared, or adulterated, is guilty of a gross cheat.

§ 182. Whoever is convicted of a gross cheat shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding one thousand dollars.

§ 183. No person shall be exempted from criminal prosecution for gross cheating by reason of the party cheated having a remedy against him by civil action.

FALSE PERSONATION.

§ 184. Every person who shall falsely represent or personate another, and in such assumed character shall cause a license for marriage to be granted by falsely representing himself or herself to be the parent or guardian of a minor, or shall perform the marriage ceremony by falsely representing himself to be authorized by law to perform that ceremony, or shall falsely personate another before any public officer in doing any act required or authorized by law, or shall become bail or surety for any party in any proceeding, civil or criminal, before any court or officer authorized to take such bail or surety; or confess any judgment, or acknowledge the execution of any conveyance of real estate or of any other instrument which by law may be recorded; or do any other act in the course of any suit, proceeding, or prosecution whereby the person so represented or personated may be liable in any event of any debt, damages, costs, or sums of money, or his rights or interests may in any matter be affected, shall upon conviction be punished by imprisonment at hard labor not exceeding five years and by fine not exceeding one thousand dollars.

§ 185. Any person not a duly commissioned police officer or member of the police organization known as the "citizens' guard" who shall wear or display a policeman's badge or a citizens' guard badge, or wear a policeman's uniform or the uniform of a member of the citizens' guard, with intent to deceive, shall be deemed guilty of a misdemeanor, and upon conviction be punished by a fine not to exceed fifty dollars.

§ 186. Any person not a duly commissioned police officer or member of the police organization known as the "citizens' guard" who shall wear or display a badge or uniform resembling the badges or uniforms authorized by the chief sheriff to be worn by police officers and members of the citizens' guard, with intent to deceive, shall be deemed guilty of a misdemeanor and be punished by a fine not to exceed one hundred dollars.

OLEOMARGARINE.

§ 187. Whoever knowingly sells to any person or offers for sale any butter manufactured from or by the use of "oleomargarine," so called, unless the package containing the same shall be distinctly marked "oleomargarine," shall be deemed guilty of a misdemeanor and punished by a fine of not more than two hundred dollars or imprisoned not more than twenty days, or both.

§ 188. Whoever knowingly imports, manufactures, sells, or offers for sale any substance purporting to be or having the semblance of butter, which substance is not wholly made from pure cream or pure milk, unless the same is imported or manufactured under its true and appropriate name and each package, roll, or parcel thereof, and each vessel containing one or more packages of the same, has distinctly and

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durably painted, stamped, or marked thereon the true and appropriate name of such substance, in ordinary bold-faced capital letters, or whoever sells any such substance to consumers without delivering with each package, roll, or parcel so sold a label on which is plainly and legibly printed the true and appropriate name of such substance, shall be guilty of a misdemeanor and punished by imprisonment of not more than sixty days or a fine not to exceed two hundred and fifty dollars, or both; but nothing contained in this section shall be construed to prevent the use of harmless coloring matter in the manufacture of butter.

NOTE TO CHAPTER 21.

§§ 177–181 are P. C., ch. 21, §§ 1–5. § 182 is S. L. 1896, act 32, repealing P. C., ch. 21, §§ 6–8. § 183 is P. C., ch. 21, § 9. § 184 is S. L. 1870, ch. 36, C. L., p. 543. §§ 185–186 are L. R., act 25. §§ 187–188 are S. L. 1892, ch. 84.
False personation of an officer of the government, *see* P. L., § 250.

CHAPTER 22.

ARSON.

§ 189. Arson is a crime of willfully and maliciously burning the dwelling house of another.

§ 190. Whoever willfully and maliciously burns in the nighttime the dwelling house of another, in which there is at the time of such burning any occupant or inmate, is guilty of arson in the first degree, and shall be punished by death, or imprisonment at hard labor for life, in the discretion of the court.

§ 191. Whoever willfully and maliciously burns in the daytime or nighttime the dwelling house of another is guilty of arson in the second degree, and shall be punished by imprisonment at hard labor for life, or any number of years, in the discretion of the court.

§ 192. A malicious burning is the offense of burning a thing, whether that of the offender or another person, with intent to injure another, or without any legal or justifiable motive or object, and with a reckless disregard of the life, or personal safety, property, or legal rights, or interests of another, where the same are obviously, immediately, and imminently endangered by the burning.

§ 193. Where the thing burnt or attempted to be burnt is that of another than the offender, malice shall be presumed; where it is that of the offender, the malice must be shown.

§ 194. Whoever willfully and maliciously, or fraudulently burns in the night any building, vessel, or structure whatsoever, whether partly or wholly his own, or that of another, by the burning of which another might be injured, where the buildings, vessels, or structures burnt are, with their contents, of the value of one thousand dollars or more, is guilty of malicious burning in the first degree, and shall be punished by imprisonment for life at hard labor, or any number of years, in the discretion of the court.

§ 195. Where the burning mentioned in the preceding section is in the day, the offender is guilty of malicious burning in the second degree, and shall be punished by imprisonment at hard labor not more than ten years.

§ 196. Whoever willfully and maliciously, or fraudulently burns, either in the night or day, any building, vessel, or structure whatsoever, whether partly or wholly his own or that of another, by the burning of which another might be injured, where the buildings, vessels, or structures burnt are, with their contents, of the value of five hundred

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dollars or over, and less than one thousand, is guilty of malicious burning in the second degree, and shall be punished by imprisonment at hard labor not more than ten years.

Where such value is less than five hundred dollars, it is a malicious burning in the third degree, and the offender shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding five hundred dollars, in the discretion of the court.

§ 197. Whoever willfully and maliciously burns any pile or parcel of wood, timber, or lumber, or any field, patch, stack, or parcel of grass, grain, cane, or other vegetable product, whether severed from the soil or not, or any standing trees, brush, or underwood, or other standing product of the soil of another, is guilty of a malicious burning in the third degree, and shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding five hundred dollars, in the discretion of the court.

§ 198. It shall be sufficient to constitute a burning, within the meaning of the provisions of this chapter, if any part of the building, structure, or other thing burnt, is on fire, though no part thereof is absolutely consumed.

§ 199. The provisions of this chapter shall apply to a married woman, equally with any other person, though the property burnt or set fire to may belong partly or wholly to her husband.

NOTE TO CHAPTER 22.

§§ 189–190 are P. C., ch. 22, §§ 1–2. § 191 is S. L., 1882, ch. 5, C. L., p. 658. §§ 192–199 are P. C., ch. 22, §§ 4–11.

Cases in Hawaiian Reports: King v. John Brown, 3 Haw., 114; R. v. Lau Chew, 8 Haw., 370; Rep. v. Saku, 9 Haw., 548.

CHAPTER 23.

MALICIOUS INJURY.

§ 200. Whoever negligently or maliciously destroys or injures any real or personal property of another, or injures or disturbs another in any of his rights or privileges of person or property shall be deemed guilty of malicious injury and shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding one thousand dollars.

§ 201. An act done in the fair exercise, assertion, or vindication in good faith of a supposed legal right, shall not be punishable as malicious injury, but the question of good faith is for the magistrate or jury to determine.

§ 202. If any dog shall injure or destroy any sheep or cattle, goats, hogs, fowls, or other property belonging to any person other than the owner of such dog, the owner shall be liable in damages to the person injured for the value of the property so injured or destroyed, and it shall be the duty of the owner to confine or destroy such dog, and if he neglect or refuse to do so he shall, in the event of any further damage being done to the person or property of any person by such dog, in addition to paying the person injured for such damage, pay the costs of the trial, together with a fine of ten dollars, or in default of the payment of such fine, be imprisoned at hard labor for the term of thirty days, and it shall be lawful for any other person to destroy said dog.

NOTE TO CHAPTER 23.

§§ 200–201 are S. L., 1896, act 35, repealing P. C., ch. 23, §§ 1–8. § 202 is P. C., ch. 23, § 9.

Cases in Hawaiian Reports: R. v. Wansey, 8 Haw., 116; R. v. Saku, 9 Haw., 548.

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CHAPTER 24.

CRUELTY TO ANIMALS.

§ 203. If any person shall overdrive, overload, torture, torment, deprive of necessary sustenance, or cruelly beat or needlessly mutilate or kill, or cause or procure to be overdriven, overloaded, tortured, tormented, or deprived of necessary sustenance, or to be cruelly beaten, or needlessly mutilated or killed, as aforesaid, any living creature, every such offender shall, for every such offense, be guilty of a misdemeanor.

§ 204. Any person who shall keep or use, or in any way be connected with or interested in the management of, or shall receive money for, the admission of any person to any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock, or other creature, and every person who shall encourage, aid, or assist therein, or who shall permit or suffer any place to be so kept or used, shall, upon conviction thereof, be adjudged guilty of a misdemeanor.

§ 205. Any poundmaster who shall receive into his pound any creature shall supply the same, during such confinement, a sufficient quantity of good and wholesome food and water, and in default thereof shall, upon conviction, be adjudged guilty of a misdemeanor.

§ 206. If any person shall carry or cause to be carried, in or upon any vehicle or other conveyance, any creature in a cruel or inhuman manner, he shall be guilty of a misdemeanor.

§ 207. Every person who shall willfully set on foot, or instigate, or move to, or carry on, or promote, or engage in, or do any act towards the furtherance of any act of cruelty to animals shall be guilty of a misdemeanor.

§ 208. Any person who shall sell or offer for sale, or use, or expose, or who shall cause or procure to be sold, or offered for sale, or used, or to be exposed, any horse or any other animal having the disease known as glanders, or farcy, or any other contagious or infectious disease, known by such person to be dangerous to human life, or which shall be diseased past recovery, shall be guilty of a misdemeanor.

§ 209. The agent of any society which shall be formed or incorporated for the prevention of cruelty to animals, upon being appointed thereto by the president of such society, in any district in this territory, may within such districts make arrests and bring before any district magistrate thereof offenders found violating the provisions of this chapter, to be dealt with according to law.

§ 210. Any officer, agent, or member of such society may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in his presence. Any person who shall interfere with or obstruct any such officer, agent, or member in the discharge of his duty shall be guilty of a misdemeanor.

§ 211. When any person arrested is at the time of such arrest in charge of any vehicle drawn by or containing any animal, any agent of such society may take charge of such animal and of such vehicle and its contents, and deposit the same in a safe place of custody, or deliver the same into the possession of the police or sheriff of the place wherein such arrest was made, who shall thereupon assume the custody thereof.

§ 212. Upon complaint under oath to any district magistrate authorized to issue warrants in criminal cases that the complainant has just and reasonable cause to suspect that any of the provisions of law relating to or in anywise affecting animals are being or are about to be violated in any particular building or place, such magistrate shall immediately issue and deliver a warrant to any person authorized by

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law to make arrests for such offenses, authorizing him to enter and search such building or place and to arrest any person there present found violating any of said laws, and to bring such person before the nearest magistrate of competent jurisdiction, to be dealt with according to law.

§ 213. In this chapter, and in every law passed, or which may be passed, relating to or affecting animals, the singular shall include the plural. The words "animal" or "dumb animal" shall be held to include every living creature; the words "torture," "torment," or "cruelty" shall be held to include every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted; and the words "owner" and "person" shall be held to include corporations as well as individuals.

§ 214. Any person convicted under the provisions of this chapter shall forfeit and pay any sum not exceeding twenty dollars, or be imprisoned, with or without hard labor, not exceeding one month, or be punished by both such fine and imprisonment.

NOTE TO CHAPTER 24.

§§ 203-213 are S. L. 1884, ch. 51, repealing P. C., ch. 24. § 214 is S. L. 1886, ch. 13.
Cases in Hawaiian Reports: King v. Tai Wa, 5 Haw., 598.

CHAPTER 25.

FELONIOUS BRANDING OF CATTLE.

§ 215. Whoever shall willfully and feloniously brand, or otherwise mark, any kine, horse, mule, sheep, goat, or other cattle belonging to another, with his mark, or with the mark of another not the owner of the animal so branded or marked, with the intent to convert it to his own use, or to the use of another, shall be punished by a fine not exceeding one hundred dollars for each kine, horse, mule, sheep, goat, or other cattle thus branded or marked; and in addition to such fine, he shall restore the cattle or the value thereof to the lawful owner. In default of the payment of such fine and the restoration of the cattle or the value thereof, or either, the offender shall be punished by imprisonment at hard labor not more than two years.

NOTE TO CHAPTER 25.

§ 215 is P. C., ch. 25, unaltered.
Cases in Hawaiian Reports: Davis v. Green, 2 Haw., 367.

CHAPTER 26.

RIDING AND DRIVING.

§ 216. Whoever furiously, or heedlessly of the safety of others, rides any horse or other animal, or drives or conducts any vehicle, and thereby imminently endangers the personal safety of any person, shall be punished by a fine not less than five dollars nor exceeding five hundred.

§ 217. Whoever furiously, or heedlessly of the safety of others, rides any horse or other animal, or drives or conducts any vehicle, though at the time the personal safety of any person be not endangered thereby, shall be punished by fine not less than five dollars nor exceeding one hundred.

§ 218. Whoever drives, leads, or otherwise conducts any wild bull, bullock, cattle, or other ferocious or dangerous animal in the street of

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any village, or in any place of public resort, shall, in case the personal safety of any person is thereby imminently endangered, be punished by fine not less than five dollars nor exceeding five hundred; or in case the personal safety of any person is not so endangered, by a fine not less than five dollars nor exceeding one hundred.

§ 219. Whoever frightens, exasperates, or animates a horse or other animal, and thereby endangers the personal safety or the personal property of any person, or of the animal itself, being that of another, shall be punished, in case the personal safety of any person is thereby imminently endangered, by fine not less than five dollars nor exceeding five hundred, otherwise by fine not less than five dollars nor exceeding one hundred.

§ 220. Whoever is convicted of either of the offenses specified in the preceding sections, committed after a previous conviction and sentence for either of such offenses, shall be punished, in addition to the fine imposed, by imprisonment at hard labor not exceeding six months.

§ 221. No dray used for the carriage of goods or freight of any description within the district of Honolulu, shall, whether laden or unladen, be driven at a faster pace than a walk.

LIGHTS.

§ 222. The driver of every vehicle which shall be driven after dark within the said district of Honolulu shall cause a sufficient light or lights to be kept burning on every such vehicle during the hours of darkness.

§ 223. Any person violating the provisions of sections 221 or 222 shall, on conviction before the district magistrate of Honolulu, be fined in a sum not exceeding ten dollars for every such offense.

§ 224. The driver of every vehicle used for pleasure, the carrying of passengers, transporting of freight, or for any other purpose, which shall be driven upon any public street, road, or highway of the Territory, shall cause a suitable light or lights to be kept burning on every such vehicle during the hours of darkness.

Any person violating the provisions of this section shall, upon conviction before any district magistrate, be fined in a sum not exceeding ten dollars.

§ 225. The rider and user of every bicycle or tricycle or vehicle of a similar nature which shall be ridden or used within the district of Honolulu after dark shall cause a sufficient light or lights to be kept burning on every such vehicle during the hours of darkness.

Any person violating the provisions of this section shall, upon conviction before the district magistrate of Honolulu, be fined in a sum not exceeding ten dollars for every such offense.

NOTE TO CHAPTER 26.

§§ 216-220 are P. C., ch. 26, §§ 1-5; §§ 221-233 are S. L., 1880, ch. 43; C. L., p. 619; § 224 is S. L., 1892, ch. 11; § 225 is S. L., 1892, ch. 28.

Cases in Hawaiian Reports: Cummins v. Sumner, 3 Haw., 170; R. v. Wall, 7 Haw., 760; Williams v. Pantheon Stables, 8 Haw., 171; P. G. v. Tam Sing, 9 Haw., 284; Re Tramways Co., 9 Haw., 281.

CHAPTER 27.

PERJURY.

§ 226. Perjury is willfully, knowingly, and falsely stating, verbally or in writing, some material fact on oath where the oath is required or authorized by law.

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An oath includes an affirmation within the meaning of this act. The oath or affirmation must be duly administered by one having legal authority to administer the same, either in person or through an interpreter.

§ 227. Subornation of perjury is the willfully and corruptly procuring another to commit perjury.

§ 228. Whoever is guilty of perjury or subornation of perjury shall be punished by imprisonment at hard labor not more than twenty years.

NOTE TO CHAPTER 27.

§§ 226–228 are S. L., 1896; act 33, repealing P. C., ch. 27.

Cases in Hawaiian Reports: Rex v. Papa and Kameakua, 1 Haw., 195; King v. Bili Kamakana, 3 Haw., 313; R. v. Angee, 8 Haw., 259; R. v. Ah Fook, 8 Haw., 265; R. v. Chee Wai, 8 Haw., 728.

CHAPTER 28.

CONSPIRACY.

§ 229. A conspiracy is a malicious or fraudulent combination or mutual undertaking or concerting together of two or more to commit any offense or instigate anyone thereto, or charge anyone therewith; or to do what plainly and directly tends to excite or occasion offense, or what is obviously and directly wrongfully injurious to another:

For instance—

A confederacy to commit murder, robbery, theft, burglary, or any other offense provided for in the criminal code; to prevent, obstruct, defeat, or pervert the course of justice by suborning a witness, tampering with jurors, or the like offenses;

To groundlessly accuse anyone of, and cause him to be prosecuted for, an offense;

To charge anyone with an offense, with the intent and for the purpose of extorting money from him;

To falsely charge one with being the father of an illegitimate child;

To cheat another by means of false tokens and pretenses;

To manufacture a spurious article for the purpose of defrauding whomsoever the same can be sold to;

To destroy a will and thereby prejudice the devisees;

To prevent another, by indirect and sinister means, from exercising his trade, and to impoverish him;

To establish, manage, or conduct a trust or monopoly in the purchase or sale of any commodity.

§ 230. Any person knowingly acceding to and joining in a conspiracy after the same is formed is a party thereto, no less than the one who originally takes part in forming the same.

§ 231. It is not requisite that the act agreed upon should be done or attempted in pursuance of the conspiracy; the conspiracy itself constitutes the offense.

§ 232. The act of each party to a conspiracy, in pursuance thereof, is the act of all.

§ 233. Husband and wife can not by themselves, without others, be guilty of a conspiracy, and the acts or confessions of either are not evidence against the other in a prosecution for conspiracy.

§ 234. Conspirators may be tried jointly or severally. But to prevent oppression by joining parties, and thus depriving some of the testimony of others, it is provided that in the trial of anyone for a conspiracy another charged as a coconspirator may be a witness, and in such case the two may be separately tried, though joined in the indictment.

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§ 235. Where one is convicted of any offense, he is not liable thereafter to be tried for or convicted of a conspiracy to commit the same; and if a conspiracy to commit an offense and the commission of the same be charged in the same indictment, the defendant is liable to be sentenced for one only.

§ 236. On a prosecution for conspiracy, if the jury find, or the magistrate having jurisdiction of the fact consider, the offense to be trivial, the defendant shall be discharged, with or without costs, in the discretion of the court.

§ 237. Conspiracy to commit, or to instigate to the commission of, a felony; or to charge anyone with felony; or to prevent, obstruct, defeat, or pervert the course of justice; or to forge, or counterfeit, or cheat, to an amount exceeding one hundred dollars, is in the first degree, and shall be punished by imprisonment at hard labor not more than ten years, or by fine not exceeding one thousand dollars, in the discretion of the court.

§ 238. A conspiracy to establish, create, manage, or conduct a trust or monopoly in the purchase or sale of any commodity is in the second degree, and shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding ten thousand dollars, in the discretion of the court.

§ 239. Conspiracy not appearing to be in the first and second degrees is in the third degree, and shall be punished by imprisonment at hard labor not exceeding one year and by fine not exceeding four hundred dollars, in the discretion of the court.

NOTE TO CHAPTER 28.

§ 229 is P. C., ch. 28, § 1, amended S. L. 1892, ch. 102. §§ 230-237 are P. C., ch. 28, §§ 2-9. §§ 238-239 are S. L. 1892, ch. 102.

Cases in Hawaiian Reports: Rex v. Anderson and Russell, 1 Haw., 41; King v. Thornton, 4 Haw., 45; Rex v. Ho Fon, 7 Haw., 758; R. v. Marks, 1 Haw., 81; R. v. Macfarlane, 7 Haw., 352; R. v. Walker, 9 Haw., 171.

CHAPTER 29.

OBSTRUCTING THE COURSE OF JUSTICE.

§ 240. Whoever being lawfully made prisoner, or lawfully detained on conviction or charge of any offense, or as a witness in any capital case, escapes from such imprisonment or detention against the will of the officer having him in custody, shall, in case the offense be capital or punishable by imprisonment for life or for ten years or more, be punished therefor by imprisonment at hard labor not more than three years, or by fine not exceeding five hundred dollars.

§ 241. In case of such escape from imprisonment on conviction or charge of, or as a witness in respect to, any offense otherwise punishable than as described in the preceding section, the person so escaping shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding one hundred dollars.

§ 242. Whoever, being a prisoner lawfully detained in the custody of any officer or other person authorized by law to detain such prisoner, in any other case than those provided for in the preceding sections, escapes, shall be punished by imprisonment at hard labor not more than three months, and by fine not exceeding ten dollars.

§ 243. Whoever rescues any prisoner or person lawfully held in custody on conviction or charge of any offense, or as a witness on a criminal charge, or aids or assists any such prisoner, witness, or person so

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held in custody in his design or endeavor to escape, whether his escape be or be not effected or attempted, or conveys into any fort or other prison any disguise, tool, weapon, or other thing adapted to facilitate, and with intent to facilitate, the escape therefrom of any such prisoner, witness, or other person, shall, in case the aforesaid offense or criminal charge be capital, or punishable by imprisonment for life, or for ten years or more, be punished by imprisonment at hard labor not more than three years, and by fine not exceeding five hundred dollars. In any other case he shall be punished by imprisonment at hard labor not more than one year, and by fine not exceeding one hundred dollars.

§ 244. Whoever aids any prisoner lawfully imprisoned for any other cause than those mentioned in the preceding section to escape from the custody of an officer or other person authorized by law to detain such prisoner shall be punished by imprisonment not more than six months and by fine not exceeding fifty dollars.

§ 245. Any jailor or other officer who voluntarily suffers any prisoner in his custody upon conviction of or charged with any offense to escape shall suffer like punishment and penalties as the prisoner so suffered to escape was sentenced to, or would be liable to suffer upon conviction for the crime or offense wherewith he stood charged.

§ 246. Any jailor or other officer who, through negligence, suffers any prisoner in his custody, upon conviction of or charged with any offense, to escape, or who willfully refuses to receive into his custody any prisoner lawfully committed thereto, shall be punished by imprisonment at hard labor not exceeding two years, or by fine not exceeding five hundred dollars.

§ 247. Any officer authorized by law to serve or execute any lawful process to him directed, delivered, or offered, requiring him to apprehend or confine any person convicted of or charged with an offense, who willfully and corruptly refuses, neglects, or delays to serve the same, whereby such person shall avoid arrest and go at large, shall be punished by imprisonment at hard labor not more than one year, or fine not exceeding three hundred dollars.

§ 248. Any person required by the chief sheriff, or by any sheriff, deputy sheriff, or constable, to assist him, in case of emergency, in the execution of his office in any criminal case, or in the preservation of the peace, or the apprehending or securing of any person for a breach of the peace, who refuses or neglects to render the assistance so required, shall be punished by fine not exceeding fifty dollars.

§ 249. Whoever rescues a thing that is under legal seizure or detention, with intent to defeat such seizure or detention, or impede, oppose, or defeat the process whereby the thing is seized or detained, shall be punished by fine not exceeding five hundred dollars.

§ 250. Whoever falsely assumes to be a district magistrate, chief sheriff, sheriff, deputy sheriff, constable, or other officer of the government, and takes upon himself to act as such, shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding one hundred dollars.

§ 251. Whoever, having knowledge of the commission of any offense punishable with death, or by imprisonment for life, shall give or receive any money, service, or other gratuity or reward, to compound or conceal such offense, or not to prosecute therefor, or not to give evidence thereof, shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding five hundred dollars. Where the offense is not punishable as aforesaid, he shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding one hundred dollars.

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§ 252. Whoever, willfully intending to prevent or obstruct the course of justice, shall give any gratuity or reward, or make any promise thereof, express or implied, that anyone shall evade giving his testimony, or shall destroy, conceal, or suppress any deposition or other legal evidence in any suit or proceeding, criminal or civil, shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding five hundred dollars.

§ 253. Whoever willfully obstructs or attempts to obstruct the public legislation, or the due administration of the law, by threats of violence against, or intimidation of, or endeavoring to intimidate any member of the legislature, or any legislative, judicial, executive, or other officer charged with any duty in the administration, enforcement, or execution of the law, shall be punished by imprisonment not more than one year, or by fine not exceeding five hundred dollars.

§ 254. Whoever is guilty of corruptly influencing or attempting to corruptly influence anyone serving or summoned as a juryman, in favor of or against any party to any suit or matter pending at the time, or that may thereafter come before such juryman for his verdict or decision, shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding five hundred dollars.

§ 255. Whoever corruptly gives or promises to any executive, legislative, or judicial officer, or to any master in chancery, juror, appraiser, referee, arbitrator, or umpire, any gift, gratuity, service, or benefit, with intent to influence his vote, judgment, opinion, decision, or other acts as such in any case, question, proceeding, or matter pending, or that may by law come or be brought before him in his capacity as aforesaid, shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding five hundred dollars.

§ 256. Every executive, legislative, judicial, or civil officer, or any master in chancery, or any person acting or summoned as a juror, or any appraiser, referee, arbitrator, or umpire, who corruptly accepts any gift, gratuity, beneficial service, or act or promise of either, under an agreement, or with an understanding that he shall in the exercise of any function in his capacity as aforesaid, vote, decide, or act in any particular manner in any cause, question, proceeding, or matter pending or that may by law come or be brought before him, shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding one thousand dollars.

CONTEMPT OF COURT.

§ 257. Whoever, after trial by jury, is adjudged guilty of contempt of any judicial court, whether by open resistance to the process or proceedings thereof, or of any judge or justice thereof in the lawful exercise of his judicial functions; or by insulting, contemptuous, contumelious, disrespectful, or disorderly language, behavior, or act, or breach of the peace, noise, or other disturbance in the presence or hearing thereof when in session; or by willful disobedience or neglect of any lawful process or order; or by refusing to be sworn as a witness, or, when sworn, to answer any legal and proper interrogatories; or by publishing animadversions on the evidence or proceedings in a pending trial tending to prejudice the public respecting the same, and to obstruct and prevent the administration of justice; or by knowingly publishing an unfair report of the proceedings of a court, or malicious invectives against a court or jury tending to bring such court or jury or the administration of justice into ridicule, contempt, discredit, or odium,

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shall be punished by imprisonment at hard labor not exceeding two years, or by fine not exceeding five hundred dollars; provided, however, that every judicial tribunal acting as such, and every magistrate acting by authority of law in a judicial capacity, may summarily punish persons guilty of contempt, as follows:

1. The supreme court, by imprisonment not more than three months, or by fine not exceeding one hundred dollars, or by both such fine and imprisonment, in the discretion of the court.

2. Any circuit court or any court of probate, by imprisonment not more than two months, or by fine not exceeding one hundred dollars.

3. Any circuit judge, by imprisonment not more than thirty days, or by fine not exceeding fifty dollars.

4. Any district magistrate, coroner, or other person acting in a judicial capacity by authority from any court of record, by imprisonment not more than ten days, or by fine not exceeding ten dollars.

§ 258. Hereafter it shall not be lawful for any court, judge, district magistrate, coroner, or any other person having power to inflict punishment upon any person who may be adjudged guilty of contempt, to add the punishment of hard labor to any sentence which may be passed upon any such person adjudged guilty as aforesaid.

§ 259. Persons punished according to the provisions of section 257 shall also be liable to indictment for the same misconduct if it be an indictable offense; but the court before which a conviction is had on the indictment, in passing sentence, shall take into consideration the punishment before inflicted.

§ 260. When the contempt consists in the omission or refusal to perform an act which is yet in the power of the party to perform, he may be imprisoned until he have performed it, and in that case the act shall be specified in the warrant of commitment.

§ 261. The publication of proceedings before any court or judge shall not be deemed to be contempt, nor shall such publication be punishable as contempt.

§ 262. Constructive contempts shall not be punishable as such.

NOTE TO CHAPTER 29.

§§ 240-256 are P. C., ch. 29, §§ 1-17. § 257 is P. C., ch. 29, § 18, amended S. L. 1872, ch. 13, C. L., p. 318. § 258 is S. L. 1872, ch. 13, C. L., p. 318. §§ 259-260 are C. L. §§ 1097-1098. §§ 261-262 are S. L. 1888, ch. 42.

Cases in Hawaiian reports: Onomea v. Austin, 5 Haw., 606; Ackerman v. Congdon, 7 Haw., 34; Loo Gnawk v. Cartwright, 7 Haw., 401; Re v. Sin Hook, 8 Haw., 185; Re Bush, 8 Haw., 223; Govt. v. Stone, 9 Haw., 363; R. v. Young Hee, 10 Haw., 114; P. G. v. Caecires, 9 Haw., 522; R. v. Asegut, 3 Haw., 540; R. v. Sherman, 1 Haw., 250; R. v. Ah You, 3 Haw., 393; R. v. Aho, 5 Haw., 565; Kalaeokekoi v. Kahanu, 4 Haw., 484; R. v. Webster, 1 Haw., 95; Re Campbell, 2 Haw., 27; Re Morrison, 2 Haw., 292; Re Lyons, 6 Haw., 452; R. v. Robertson, 6 Haw., 718; Alau v. Everett, 7 Haw., 82; Smith v. Aholo, 7 Haw., 115; R. v. Lee Fook, 7 Haw., 249; Re Sheldon, 9 Haw., 32.

CHAPTER 30.

FORGERY.

§ 263. Forgery is the fraudulent making or altering a writing with the intent to deceive another and prejudice him in some right.

§ 264. A writing comprehends manuscript, print, inscriptions, figures, marks, and other modes of indicating, upon paper or other material substance, words, sense, or meaning.

§ 265. The making of the initials of one's name or a mark as his signature to a promissory note or other document, or the stamping of a

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signature, with intent to defraud, is as much a forgery as if the party had signed that person's name.

§ 266. An intent to deceive is essential to forgery, but it is not essential that anyone should in fact be thereby deceived.

§ 267. In order to constitute forgery, the writing must, as made or altered, purport to be the writing of another party than the person making or altering the same, except in the case of an alteration by the maker of a writing in which others have a property or direct interest.

§ 268. It is not necessary, in order to constitute a forgery, that there should really be any such other person or party as the writing purports. For example, the drawing of a bill of exchange in the name of a fictitious person is as much a forgery as if it had been made in the name of one who was known to exist and to whom credit was due.

§ 269. To constitute forgery, it is not essential that the forged instrument should be so made that, if genuine, it would be valid. For example, it is forgery to fabricate any false instrument on unstamped paper, which by law requires a stamp, or to make a false will of a living person, notwithstanding it can have no validity as a will until his death; provided, however, that it is essential, to constitute forgery, that the false instrument should carry on its face the semblance of that for which it was counterfeited, and that it should not be obviously invalid, void, and of no effect.

§ 270. The deceptive and fraudulently making of one's own signature as being that of another, the writing being such that others might thereby be deceived and defrauded or prejudiced, is forgery.

§ 271. Whoever is guilty of the forgery of any deed of conveyance, lease, promissory note, bill of exchange, due bill, check, order or request to pay money, or other writing whatever, to the amount, or involving or affecting the amount or value of one hundred dollars or more, shall be punished by imprisonment at hard labor not more than ten years and by fine not exceeding five hundred dollars.

§ 272. Whoever is guilty of the forgery of any writing to an amount less than that specified in the preceding section shall be punished by imprisonment at hard labor not more than five years and by fine not exceeding three hundred dollars.

§ 273. Whoever, knowing a writing to be false or forged, shall deceptively offer, pass, negotiate, assign, or transfer the same, or put the same into circulation as being true and genuine according to its apparent purport, shall be subject to the punishment above prescribed for the forgery of such writing.

§ 274. The cancelling, destroying, secreting, or obliterating a writing, being one's own or that of another, in which any other person has any property or direct interest, with intent thereby to defraud any person, or prejudice anyone in his person, property, rights, or interests, and whereby any person might be defrauded or so prejudiced, shall be subject to the penalty of forgery of the like writing. For example, fraudulently destroying a writing previously executed and delivered by the party destroying the same, or destroying a writing by tearing off or abstracting a part thereof.

§ 275. The knowingly and fraudulently filling up a signed blank otherwise than the party filling up the same is authorized by the signer or other person empowered thereto, to fill up the same, with intent, in either case, to defraud or prejudice such signer or any other person, and where such signer or another might be thereby defrauded or

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prejudiced, is subject to the penalty for forgery of a like writing. But this provision shall not affect the validity of such writing as against the parties liable thereon. The knowingly and fraudulently uttering such writing shall be subject to the penalty for uttering a like forged writing.

§ 276. The false and fraudulent alteration of a writing made by the party altering the same, and previously passed or delivered, the alteration being such as may tend to deceive and defraud any person, is equivalent to forgery of such writing, and shall be subject to the like punishment.

§ 277. The fraudulently and deceitfully procuring a signature to, or authentication of, a writing, under pretense that it is another and different writing, whereby the person signing or authenticating the same is deceived, and signs or authenticates the same as and for such other and different writing, shall be subject to the penalty for forgery of a like writing or authentication; and the knowingly and fraudulently uttering such writing or authentication shall be subject to the same penalty.

§ 278. Any officer or magistrate, authorized by law to take any testimony, declaration, or statement on oath, who, knowingly and corruptly, falsely takes or certifies any testimony, declaration, or statement, as to the whole or in some material part, shall be subject to the penalty for forgery of like testimony, declaration, statement, or certificate; and the knowingly and fraudulently uttering the same shall be subject to the same penalty.

§ 279. Any registrar of conveyances, notary public, or other officer authorized by law to take acknowledgment or proof of any deed of conveyance of real estate, or any other instrument, in order to entitle the same to be recorded, or to be produced in evidence, or in order to give the same validity, who falsely and corruptly certifies that any such deed was acknowledged to him by any party thereto, or that proof was given to him of the genuineness thereof, shall be subject to the penalty for forgery of a certificate of like description; and the knowingly and fraudulently uttering any such false certificate shall be subject to the same penalty.

§ 280. Any registrar of deeds, clerk of any court, or any other officer or person having the legal custody of any public record, who corruptly and falsely (in or as to any material point) makes or certifies any record or purported copy thereof, shall be subject to the penalty for the forgery of a like record, copy, or certificate; and the knowingly and fraudulently uttering of such false record or certificate shall be subject to the same penalty.

§ 281. Whoever, after having been convicted of any of the offenses provided against in this chapter, is thereafter convicted of the same, or any other of the said offenses, committed after his being so convicted, shall be subject to an additional like punishment, not exceeding by more than one-half the maximum punishment provided by law for the offense of which he is last so convicted.

NOTE TO CHAPTER 30.

§§ 263–281 are P. C., ch. 30, unaltered.

Cases in Hawaiian Reports: King v. Kalahuli, 3 Haw., 417; King v. Nakakualii, 3 Haw., 472; King v. Naheleaumoku, 3 Haw., 501; King v. Heleliilii, 5 Haw., 16; King v. Mahukaliilii, 5 Haw., 96; Rex v. Makamaka, 7 Haw., 394.

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CHAPTER 31.

COINS AND CURRENCY.

§ 282. Counterfeiting is the fraudulent making or assisting in the making of a resemblance of coin, of less intrinsic value than the genuine coin of which it is a resemblance, with the intent that the same shall be uttered or put in circulation.

§ 283. Whoever shall fraudulently diminish the coin by clipping, filing, boring, or abrading it, or otherwise taking away a part of any true and genuine coin, and substituting a metal or substance of less intrinsic value in place of the part so taken away, or without such substitution, with the intent that the same so diminished in quality or intrinsic value shall thereupon be uttered as and for true and genuine coin, is guilty of counterfeiting within the meaning of the provisions of this chapter.

§ 284. Whoever shall add to true and genuine coin, by washing, coloring, or otherwise, any metal or substance so as to make it a resemblance of coin of a greater intrinsic value, with the intent that it shall thereupon be uttered as and for true and genuine coin, is guilty of counterfeiting within the meaning of the provisions of this chapter.

§ 285. The fraudulently putting counterfeit coin into circulation, passing it, or tendering it, or offering to pass it, as being true and genuine, or aiding therein, knowing the same to be counterfeit, is uttering the same; so also the selling, passing, delivery, or parting with counterfeit coin as such; with the intent that the same shall be, or with sufficient ground to believe that the same will be thereupon passed, tendered, or offered to be passed as true and genuine, is uttering the same.

§ 286. The term coin, or true and genuine coin, as used in this chapter, includes only gold or silver money, or money of which gold or silver, or both, are the principal constituent parts, current by law or usage.

§ 287. Whoever is guilty of counterfeiting, or of uttering any counterfeit coin, being in confederacy with the counterfeiter, or being himself the counterfeiter thereof, shall be punished by imprisonment at hard labor for life, or any number of years, in the discretion of the court.

§ 288. Whoever is guilty of uttering any counterfeit coin, or of having in his possession ten or more pieces of counterfeit coin, knowing the same to be counterfeit, with the intent to utter the same as true and genuine, shall be punished by imprisonment at hard labor not more than twenty years, or by fine not exceeding one thousand dollars and imprisonment at hard labor not more than five years.

§ 289. Whoever is guilty of having in his possession any number of pieces of counterfeit coin less than ten, knowing the same to be counterfeit, with the intent to utter the same as true and genuine, shall be punished by imprisonment at hard labor not more than ten years, or by fine not exceeding five hundred dollars and imprisonment at hard labor not more than two years.

§ 290. Whoever utters counterfeit coin, knowing the same to be such, having received the same in good faith as true and genuine, upon legal and valid consideration, shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding one thousand dollars.

§ 291. Whoever knowingly casts, stamps, makes, or mends, or knowingly has in his possession any mould, pattern, die, or other tool or machine adapted and designed for counterfeiting coin, with intent to

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use or employ the same, or cause or permit the same to be used or employed, for counterfeiting coin, shall be punished by imprisonment at hard labor not more than twenty years, or by fine not exceeding one thousand dollars and imprisonment at hard labor not more than five years.

§ 292. Whoever, having been once convicted of any of the offenses provided against in this chapter, shall thereafter be convicted of any or either of such offenses committed after such former conviction, shall be punished by an additional like punishment, not exceeding by more than one-half the punishment for the offense of which he is last so convicted.

§ 293. It shall be unlawful to cut and divide any of the lawful coins of the Territory into two or more pieces with the intent that such fractional pieces shall be used as coin. Whoever is guilty of mutilating the lawful coin of the Territory shall, upon conviction before a district magistrate, be punished by a fine of ten dollars, or by imprisonment at hard labor for twenty days.

§ 294. It shall be unlawful to pass or utter a fractional piece or pieces of coin as money, or as an equivalent for money. Whoever is guilty of passing or uttering such fractional coin, as aforesaid, shall, upon conviction before any district magistrate, be punished by a fine of five dollars, or by imprisonment at hard labor for ten days.

§ 295. It shall be unlawful to receive a fractional piece or pieces of mutilated coin as money or as an equivalent therefor. Whoever is guilty of receiving such fractional pieces, as aforesaid, shall, upon conviction before any district magistrate, be punished by a fine of two dollars, or by imprisonment at hard labor for five days.

§ 296. Nothing in sections 293, 294, or 295 contained shall be held to prohibit the buying up of mutilated coin as bullion.

§ 297. Any person or corporation, or officer thereof, or any company of persons, who shall issue any note, bill, order, check, or certificate of deposit in any sum of money, with the intent that the same shall be circulated as currency, shall be guilty of misdemeanor, and for every offense shall be punished by a fine of fifty dollars or be imprisoned at hard labor not to exceed one month.

§ 298. Any person, or any corporation, or officer thereof, or any company of persons, who shall pass any note, bill, order, check, or certificate of deposit (excepting only government certificates of deposit) which has already been issued, or shall be issued before sections 297–298 shall come into operation, with the intent that the same shall be circulated as currency, shall be deemed guilty of a misdemeanor, and, on conviction thereof, be punished by a fine of fifty dollars or by imprisonment at hard labor not to exceed one month.

NOTE TO CHAPTER 31.

§§ 282–292 are P. C., ch. 31, §§ 1–11; §§ 293–296 are S. L. 1890, ch. 69; §§ 297, 298 are S. L. 1888, ch. 73.

CHAPTER 32.

LIBEL.

§ 299. A libel is a publication in writing, print, or by a picture, statue, sign, or a representation other than by words merely spoken, which directly tend to injure the fame, reputation, or good name of another person, and to bring him into disgrace, abhorrence, odium, hatred, contempt, or ridicule, or to cause him to be excluded from society.

§ 300. The making of a libel is the writing, printing, devising, or in any

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way forming the same, or iding or assisting therein, with the intent in either case that it shall be published; as, for example, the dictating or repeating it to another to write, or writing on such dictation.

§ 301. The publishing of a libel is the maliciously putting of it into circulation, or the promulgating, exhibiting, or distributing of it for the purpose of making it known to others, and thereby in fact making it known to others; or aiding or assisting therein, or the causing or promoting thereof.

§ 302. Malice is shown, in respect of libel, by making a publication or communicating it to others, willfully and purposely to the prejudice and injury of another. Hatred or ill will towards the party injured is not essential to libel.

§ 303. In every prosecution for writing or publishing a libel, the defendant may give in evidence, in his defense upon the trial, the truth of the matter contained in the publication charged to be libelous: Provided, however, that such evidence shall not be deemed a justification, unless it shall be further made to appear on the trial that the matter was published with good motives and for justifiable ends.

§ 304. The offense of making, as also that of publishing, a libel is of two degrees, and the degree is to be found by the jury, or determined by the court or magistrate authorized to decide on the facts; and so also the degree is to be determined by the court before which proceedings are had, where the facts charged are admitted by plea or otherwise.

§ 305. Whoever is guilty of the offense of making or publishing a libel in the first degree shall be punished by imprisonment at hard labor not more than one year or by fine not exceeding one thousand dollars, in the discretion of the court.

§ 306. Whoever is guilty of the offense of making or publishing a libel in the second degree shall be punished by imprisonment at hard labor not more than three months or by fine not exceeding three hundred dollars, in the discretion of the court.

§ 307. A libel on the dead is subject to a like punishment as one on the living, where the same is malicious in respect to persons living, and defamatory of, or an outrage against, or an injury to, persons living, and is intended so to be by the maker or publisher.

§ 308. A libel may be of a body, board, class, society, or association of individuals, public or private, no less than of one or more persons individually.

§ 309. Every public officer, and any board or body of persons having legal jurisdiction and cognizance of a matter, is privileged in writing, printing, or publishing, in good faith, and in the usual or in due course of proceedings, anything the writing, printing, or publishing of which pertains to the legal exercise of his functions and legal discharge of his duty as such. For example, judges are privileged in what concerns the due administration of justice, and juries in rendering their verdicts.

§ 310. Any person giving testimony or making statements under oath is not chargeable with libel for what he testifies relative to the subject-matter in respect to which his testimony is required, or in pertinent reply to the interrogatories on which he is examined.

§ 311. A person shall not be subject to the punishment for libel for anything pertinent to the subject-matter of consideration or inquiry in good faith and on probable grounds, written, or printed, or published by him in the usual manner, or in due course of proceedings, as a party, counsel, agent, guardian, or representative of, or in behalf of a party, or of the public, in any prosecution, suit, petition, complaint, or

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memorial, pending or about to be brought before any court, jury, arbitrator, officer, person, board, or body having according to law or the agreement of parties authority to proceed therein.

NOTE TO CHAPTER 32.

§§ 299-304 are P. C., ch. 32, §§ 1-6. §§ 305-306 are S. L. 1884, ch. 11. §§ 307-311 are P. C., ch. 32, §§ 9-13.

Cases in Hawaiian reports: Waterhouse v. Spreckels, 5 Haw., 246; King v. Gibson, 6 Haw., 310; Govt. v. Smith, 9 Haw., 178-257.

CHAPTER 33.

AFFRAY.

§ 312. An affray is the fighting of two or more persons in a public place, and includes any prize fight or other premeditated contention, where no weapons are used. Whoever takes part in, encourages, or promotes an affray, or is willfully present as a spectator at any prize fight or other premeditated contention, shall be punished by fine not exceeding five hundred dollars or by imprisonment at hard labor not more than six months.

NOTE TO CHAPTER 33.

§ 312 is S. L. 1896, act 26, repealing P. C., ch. 33.

CHAPTER 34.

DRUNKENNESS—BLASPHEMY—PROFANITY.

§ 313. Whoever is found drunk in any street, road, or other public place, from the voluntary use of any intoxicating liquor, shall, on the first conviction for such offense, be punished by a fine not exceeding six dollars, and on any conviction for any like offense committed after the first conviction by a fine not exceeding twelve dollars or by imprisonment at hard labor not more than three months; but no prosecution for such offense shall be sustained unless it shall be commenced within six days after the commission thereof.

[§ 314.]

§ 315. It shall be unlawful for any person to use vulgar, profane, or obscene language in any street, highway, store, shop, or other public place or place of public resort. Any violation of this section shall be punished by a fine of not more than twenty dollars or by imprisonment at hard labor of not more than one month.

NOTE TO CHAPTER 34.

§ 313 is S. L. 1876, ch. 4, C. L., p. 573. § 315 is S. L. 1892, ch. 64.

Case in Hawaiian Reports: R. v. Ben, 10 Haw., 278.

CHAPTER 35.

VIOLATING THE SABBATH.

§ 316. Whoever willfully interrupts or disturbs any religious assembly or assembly for religious worship, whether such offender commit such offense within or without the place of assembly and whether such offense be committed on the Lord's day or at any other time, shall be punished by imprisonment at hard labor not more than thirty days, or by fine not exceeding fifteen dollars, in the discretion of the court.

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§ 317. All labor on Sunday is forbidden, excepting works of necessity or mercy, in which are included all labor that is needful for the good order, health, comfort, or safety of the community, or for the protection of property from unforeseen disaster, or danger of destruction or injury, or which may be required for the prosecution of or attendance upon religious worship, or for the furnishing of opportunities of reading or study: Provided, however, That on Sunday until nine o'clock in the morning barber shops may be kept open and fresh meat and fresh fish may be sold and delivered; that until nine o'clock in the morning and after three o'clock in the afternoon milk may be delivered and cattle, sheep, and swine may be slaughtered; that during the entire day meals may be sold to be eaten on the premises where sold or served elsewhere by caterers; drugs, medicines, and surgical appliances may be sold; personal baggage may be conveyed to and from vessels leaving and arriving at port on that day; that the railroads may on Sunday carry passengers to connect with the steamers and public carriages; horse cars and licensed shoreboats may convey passengers for hire, and that all labor which may be lawfully performed on Sunday shall be conducted, as far as possible, so as not to interfere with the right of the community and of each individual to quiet and repose.

§ 318. All public amusements, sports, shows, and games on Sunday are hereby forbidden, and no one shall so prosecute or take part in any recreation, amusement, sport, or game not of a public character, on Sunday, in such a manner as to interfere with the right of the community and of each individual to quiet and repose.

§ 319. Any person violating any of the provisions of sections 317 or 318 shall, on conviction, be fined not over fifty dollars or be imprisoned not over thirty days.

§ 320. No person shall serve or execute any civil process on Sunday, and any such service or execution shall be void.

§ 321. Sunday within the meaning of the provisions of this act is the first day of the week, and includes the time between the midnight preceding and the midnight following the same day.

§ 322. No keeper of a victualing house, restaurant, or coffee shop shall keep his house, restaurant, or coffee shop open after seven o'clock on Sabbath afternoon.

§ 323. Anyone violating section 322 shall be fined, on conviction before any district magistrate, not more than one hundred dollars nor less than twenty dollars for each offense, in the discretion of the court.

NOTE TO CHAPTER 35.

§ 316 is P. C., ch. 35, § 1. §§ 317–321 are S. L. 1886, ch. 53. §§ 322–323 are S. L. 1872, ch. 4, C. L., p. 553.

Case in Hawaiian Reports: Hubertson v. Cole, 1 Haw., 44.

CHAPTER 36.

COMMON NUISANCE.

§ 324. The offense of common nuisance is the endangering of the public personal safety or health, or doing, causing, or promoting, maintaining, or continuing what is offensive, or annoying and vexatious, or plainly hurtful to the public, or is a public outrage against common decency or common morality, or tends plainly and directly to the corruption of the morals, honesty, and good habits of the people, the same being without authority or justification by law.

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As, for example, the carrying on a trade, manufacture, or business in places so situated that others indiscriminately who reside in the vicinity, or pass a highway or public place, or resort to a school house, meeting house, or any other place of legal and usual resort or assembly, are liable to be thereby injured, annoyed, disturbed, or endangered by deleterious exhalations, noisome vapors, hideous, alarming, or disgusting sights, intolerable noise, or otherwise:

By spreading or endangering the spreading of the smallpox, or other infectious disease; by carrying an infected person or causing him to pass through a frequented street; by opening a hospital or pesthouse so as to endanger neighbors or the passers-by in a frequented street or otherwise:

Making or storing gunpowder in or near a populous, or public, or frequented place without authority therefor, or the otherwise making or storing the same contrary to law:

Making loud and troublesome noises by night:

Keeping animals that disturb the neighborhood by night:

Permitting ferocious or dangerous animals to go abroad:

Keeping a bawdyhouse.

Open lewdness or lascivious behavior, or indecent exposure.

Keeping a common gambling house.

Keeping a disorderly house, to the public disturbance and annoyance.

§ 325. Occasioning a groundless fear or merely a trivial annoyance or inconvenience is not a common nuisance. Whether the act or thing is really so hurtful or prejudicial to others as to render it a common nuisance is a question of fact to be determined by the jury, court, or magistrate called to pass upon the same.

§ 326. Where only a few persons, of many who are equally exposed, are, owing to their peculiarity of temperament, or to infirmity, annoyed by an act or thing, the same is not a nuisance.

As where the noise of a tinman's shop annoys but a few of many persons equally within hearing.

§ 327. Obstructing a highway, channel, entrance to a harbor, harbor town, navigable stream, or public place, without just cause, is a common nuisance.

As by digging a ditch, laying logs, erecting a gate, or placing any other impediment in a highway.

By leaving carts or other vehicles standing in the highway an unreasonable time.

By using the highway as a timber yard, or a yard to a storehouse, or as a place to dry hides.

By erecting or maintaining a building, fence, or structure within the limits of a highway or a public place.

By overflowing a highway.

By rapid or unskillful driving, or driving an unmanageable team on the highway, and thereby endangering life.

By tying horses or other animals in the public streets for the purpose of grazing.

§ 328. Reasonable use of a highway as such is not a common nuisance. As, for example, unloading wood to put the same into a house standing near the highway, if it does not occupy an unreasonable portion of the highway, and is not left for an unseasonable or for an unreasonable time.

§ 329. The firing, letting off, or throwing of any rockets, squibs, crackers, or other fireworks in or near to frequented public highways or places of common resort, or the dwellings of others, or otherwise, to

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the annoyance and endangering of persons, or the endangering the destruction of or injury to property, is a common nuisance, except the same are fired, let off, or thrown by license of the district magistrate of the town, and in conformity with such license.

§ 330. The importing, printing, publishing, selling, offering for sale, putting into circulation, distributing, lending, exhibiting publicly, or introducing into any family, school, or place of education any obscene picture or pamphlet, sheet, or other thing containing obscene language, obscene prints, figures, description, or representations manifestly tending to the corruption of the morals of youth or of morals generally; or buying, procuring, receiving, or having in possession any such picture, book, pamphlet, sheet, or other thing, with intent to sell, circulate, distribute, lend, or exhibit the same, or to introduce the same into any family, school, or place of education, is a common nuisance.

§ 331. The offense of common nuisance is of two degrees, and the degree is to be found by the jury, or determined by the court or magistrate authorized to decide on the facts; and so also the degree is to be determined by the court before which proceedings are had, where the facts charged are admitted by plea or otherwise.

§ 332. Whoever is guilty of the offense of common nuisance in the first degree, for which punishment is not otherwise expressly provided by statute, shall be punished by imprisonment at hard labor not more than six months, or by fine not exceeding five hundred dollars.

§ 333. Whoever is guilty of the offense of common nuisance in the second degree, for which punishment is not otherwise expressly provided by statute, shall be punished by imprisonment at hard labor not more than two months, or by fine not exceeding twenty-five dollars.

§ 334. Where the lessee of a building makes the same a bawdyhouse, the lease or contract for letting the same shall at the option of the lessor become void, and the lessor shall thereupon have a like remedy for recovering possession, as against a tenant holding over after the expiration of his term; and, moreover, shall be entitled to rent for the whole term.

§ 335. Any district magistrate may issue a search warrant for the purpose of searching for any obscene books, pamphlets, pictures, or other things containing obscene language, prints, pictures, figures, or descriptions manifestly tending to the corruption of the morals of youth; and all such things as may be found by any officer in executing such warrant, or that may otherwise come to the possession of any officer, shall be safely kept, so long as shall be necessary for the purpose of being used as evidence in any case, and as soon as may be afterwards shall be destroyed by order of the court before whom the same shall be brought.

OBSTRUCTION OF STREETS.

§ 336. No person shall place, leave, or deposit in any street, lane, or alley, or upon any side or cross walk, or upon any public wharf in the city of Honolulu, or in the towns of Lahaina, Hilo, Wailuku, or Kahului, any goods, wares, or merchandise, or any substance or material whatever, except as hereinafter permitted.

§ 337. No person shall hang, suspend, place, construct, or cause or permit to grow over any such street, lane, or alley, side or cross walk, or wharf, any sign, awning, frame, balcony, tree, bush, vine, provided such tree, bush, vine, or other growth shall obstruct the street, or any other projection whatever, except as hereinafter permitted.

§ 338. No person shall dig any such street, lane, alley, side or cross

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walk, or wharf, or remove or carry away any dirt, soil, plank, paving or flagging stone, or other material of which the same may be constructed, or take up or disturb any such plank, paving or flagging stone, except as hereinafter permitted.

§ 339. No person shall erect or place in or upon any such street, lane, alley, side or cross walk, or wharf, any hitching post, telegraph or telephone poles, or flagstaff, or other structure, except as hereinafter permitted.

§ 340. Any person who shall do any of the acts prohibited by either of the foregoing four sections shall, upon conviction thereof, be fined not less than five dollars nor more than twenty-five dollars for each and every offense.

§ 341. The road supervisor shall notify any person who shall have placed, left, or deposited any substance or material contrary to the provisions of section 336, or who shall have hung, suspended, placed, constructed, or permitted to grow, any projection or article contrary to the provisions of section 337 to remove the same, and the person so notified shall forfeit and pay a penalty of five dollars for every twenty-four hours that the same shall remain after such notice shall have been given.

§ 342. The road supervisor may grant permission in writing to any person about to erect any building to occupy a portion of the street and sidewalk in front of the lot upon which such building is about to be erected, not exceeding one-half of the width of the street and one-half of the width of the sidewalk, for a reasonable time during the erection of such building. Such permission shall not be granted for a longer period of time than two months, but may be extended by the superintendent of public works and may be revoked at any time by him if it shall be found to create a serious obstruction of the street or sidewalk. When the time limited in such permission shall have expired, or such permission shall have been revoked, the person to whom such permission shall have been granted shall cause all materials placed by him, and remaining in the street or upon the sidewalk pursuant to such permission, to be removed within five days, and in default thereof shall be liable to a penalty of five dollars for every day that the same shall remain thereafter. Any person so occupying any portion of such road or sidewalk shall place and maintain such lights near the obstruction as will prevent accidents.

§ 343. Any person may leave any goods, wares, or merchandise, which shall be about receiving or delivering, for a period of time not exceeding three hours, upon the sidewalk in front of his building, such goods, wares, and merchandise not to cover more than two-thirds of the width of the sidewalk and not to be piled up to a greater height than four feet.

§ 344. Signs securely fastened to the building may be suspended over the sidewalks not extending more than three feet from the building, at a clear height above the sidewalk of not less than eight feet.

§ 345. Awning supported by iron framework securely fastened to the building in front of which such awning shall be placed, every part of which framework shall be at least eleven feet above the sidewalk, extending to the outer edge of the same: Provided, however, That in case such balconies or verandahs shall not reach as far as the edge of the sidewalk they shall be supplemented by an additional roof or awning extending as far as the edge of the sidewalk, not more than the width of such sidewalk; and in case the awning is suspended from such frame it shall be suspended on a line with the outer edge of the sidewalk. On streets not less than fifty feet in width balconies or veran-

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dahs may be constructed, no part of which shall be less than eleven feet above the sidewalk. In no case shall such balcony or verandah exceed six feet in width, and in all cases the plans therefor shall be first approved by the superintendent of public works or his agent.

§ 346. Posts for the purpose of hitching horses or other animals may be placed at the outer edge of the sidewalk or on the edge of the road in front of any building, and such posts shall be not more than four feet in height.

§ 347. The superintendent of public works may grant permission to place, plant, or set out ornamental or shade trees within any sidewalk not more than one foot from the outer edge thereof, and may grant permission to erect flagstaffs, telegraph or telephone poles in any or all of the streets or roads as may be for the public convenience; and the said superintendent is hereby authorized to make regulations for the placing and erecting of the same, and such regulations must be strictly complied with by any person, firm, or corporation to whom such permission shall be granted.

§ 348. The road supervisor may grant permission to any person, firm, or corporation to dig up the sidewalk and street in front of his or their lot or building for the purpose of making a connection with any water or gas main or public sewer, or for other purposes. The person, firm, or corporation to whom such permission shall be granted shall, within twenty-four hours from the time the work is commenced, finish the same, and refill, replace, rebuild, and relay the street and sidewalk taken up or disturbed by him, in a substantial and workmanlike manner, and leave the same in as good condition as it was when said permission was granted. If any excavation made for the purposes mentioned in this section shall remain open at night, the party having the permission shall place and maintain such light or lights near the opening as will prevent accidents.

§ 349. Goods, wares, and merchandise may be placed or piled upon any wharf in such manner as shall be most convenient, provided that suitable and convenient roadways and means of access are left open and the said goods, wares, and merchandise are not so placed or piled as to be dangerous to any person going to or upon said wharf, or dangerous to said wharf, and the harbor master is authorized to regulate such placing or piling; and any person placing or piling the same in a manner contrary to the direction of the harbor master shall be liable to a penalty of five dollars for each and every offense and the same penalty for each day during which each such offense is continued.

§ 350. If any person who shall have received the notice provided in section 341 shall not comply with such notice for the space of twenty-four hours, the road supervisor may remove the obstruction at the expense of such person, and such person shall be liable for the cost of such removal in addition to the penalty provided in such section.

§ 351. If any person who shall have received the permission provided in section 342 shall fail to remove any material placed by him and remaining in the street or upon the sidewalk within twenty-four hours after the time limited in such permission shall have expired, or after such permission shall have been revoked, or shall fail to place and maintain the lights therein required, the road supervisor may remove the same and may place and maintain such lights at the expense of such person; and such person shall be liable for the cost of such removal and of such lights in addition to the penalty provided in such section.

§ 352. Any person who shall violate any of the provisions of sections

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343, 344, 345, 346, and 347 shall be liable to a penalty of not less than five dollars nor more than twenty-five dollars for each and every offense.

§ 353. If any person who shall have received the permission provided in section 348 shall fail to replace the street or sidewalk or to place the lights as therein provided, he shall be liable to a penalty of not less than five dollars nor more than twenty-five dollars for every twenty-four hours that the said default shall continue, and the road supervisor may replace the same or place the said lights at the expense of such person; and such person shall be liable for the cost of such replacing or of such lights in addition to said penalty for delay.

§ 354. No person shall drive, draw, or cause to go upon any sidewalk any vehicle whatsoever, except when it shall be necessary for such vehicle to cross such sidewalk for the purpose of going into some yard or lot or into some place where such vehicle is kept when not in use.

§ 355. No person shall hitch or fasten any horse or other animal to any ornamental or shade tree in the streets or sidewalks, or to any box or frame around such tree.

§ 356. No person shall leave any horse or mule in any street, lane, or alley unless said horse or mule shall be securely tied or fastened.

§ 357. No person shall hitch or fasten any horse or animal in such manner that such horse or animal, or the appliance used for hitching or fastening such horse or animal, shall obstruct the free passage along any side or cross walk.

§ 358. No person shall leave or permit to remain upon any street, lane, or alley any vehicle belonging to him, or over which he shall have control, for a longer time than fifteen minutes, unless there shall be attached to said vehicle some draught animal. Nor shall any person unnecessarily obstruct the passage of any street, lane alley, or cross-walk by means of any vehicle or animal.

§ 359. No person shall move, or cause to be moved, or assist in moving any building into, upon, along, or across any street, lane, alley, or sidewalk without having first obtained permission in writing so to do from the superintendent of public works or the road supervisor.

§ 360. No person shall fly kites in or upon any street, lane, alley, or sidewalk.

§ 361. Any person who shall do any of the acts prohibited by, or violate any of the provisions of sections 354 to 360, both inclusive, or remove or extinguish any lights placed as provided by this act, shall be liable to a penalty of not less than five nor more than twenty-five dollars for each and every offense.

§ 362. The several district magistrates throughout the Territory shall have jurisdiction to hear and determine complaints for any violation of the provisions of this act.

§ 363. Nothing in this act shall be held to conflict with any laws or regulations which now exist, or which may hereafter exist, for the fire control or management of the district known as the "Fire limits of Honolulu." The provisions of this act shall apply to all public streets, lanes, alleys, or sidewalks in the towns herein within such limits as may be from time to time fixed by the superintendent of public works.

POSTERS.

§ 364. Any person who shall affix or attach any show bill, handbill, poster, advertisement, or other notice to any building, fence, bridge, tree, rock, pole, or other structure or object without first obtaining the consent of the person or persons entitled to the possession of such building, fence, bridge, tree, rock, pole, or other structure or object,

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shall be guilty of a misdemeanor, and upon conviction thereof before any district magistrate shall be fined not more than twenty dollars for each offense.

ARTESIAN WELLS.

§ 365. Every flowing artesian well now on the island of Oahu that may hereafter be made on said island, shall be capped by the owner or owners thereof in such manner as to give complete control over the flow of water from the pipe of such well.

§ 366. No person having the right to the use of water from any such artesian well shall allow the same to run to waste, but may use it for irrigation, domestic, and other useful purposes, except for driving machinery, provided, however, that such water may be used for driving machinery in case it be utilized afterwards for irrigation or other useful purposes.

§ 367. Any person violating the provisions of sections 365 and 366 shall, upon conviction thereof before any district magistrate of the island of Oahu, be fined not more than fifty dollars.

§ 368. For the more effectual carrying out of sections 365–367 the chief sheriff and deputy chief sheriff of the Territory, and all policemen of the island of Oahu, may at all times of night or day enter without warrant any premises whereon artesian water is used.

FEMALE BOARDING SCHOOLS.

§ 369. Any person or persons intruding without proper authority upon the premises of any female boarding school may be arrested by any constable, without any warrant, and on complaint of the principal or other person in charge of such school, or of any trustee of the same, upon conviction thereof before any district magistrate, may be punished by fine not to exceed two hundred dollars, or by imprisonment at hard labor not to exceed six months, or both, at the discretion of the magistrate. Nothing herein shall be construed to preclude the punishment of the offender for any other offense committed on such premises, nor of the right of action for civil damages.

NOTE TO CHAPTER 36.

§§ 324–335 are P. C., ch 36, §§ 1–12. §§ 336–363 are S. L., 1886, ch. 65. § 364 is S. L., 1884, ch. 47. §§ 365–368 are S. L., 1884, ch. 49. § 369 is S. L., 1882, ch. 37, C. L., p. 687.

Cases in Hawaiian Reports: King v. Cornwell, 3 Haw., 154; King v. Nawahine, 3 Haw., 371; King v. Kekaula, 3 Haw., 378; King v. Grieve, 6 Haw., 740; P. G. v. Wery, 9 Haw., 228.

CHAPTER 37.

VAGRANTS—DISORDERLY PERSONS.

§ 370. Any common prostitute, or any person who is lewd, wanton, or lascivious in speech or behavior, or any person who has no visible lawful means or insufficient lawful means of support, or who wanders abroad or places himself in any public place to beg alms, or causes any child so to do; or who solicits or collects alms or contributions under any false pretense; or who practices hoopiopio, hoounauna, hoomanamana, anaana, or pretends to have the power of praying persons to death; or who pretends to tell fortunes for money or other reward; or who has in his possession without lawful excuse (the proof of which excuse shall be upon such person) any false or skeleton key, or any

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implement of housebreaking; or who is found by night dressed or disguised with a felonious intent; or who is found by night without lawful excuse (the proof of which excuse shall be upon such person), in or upon any dwelling house or other buildings or any enclosed yard, or on board any vessel; or who is a dangerous or disorderly person by reason of his being a rioter, disturber of the peace, going offensively armed, uttering menaces or threatening speeches, or otherwise, shall be punished by imprisonment at hard labor not more than six months.

[§§ 371, 372.]

NOTE TO CHAPTER 37.

§ 370 is S. L., 1896, act 36.

CHAPTER 38.

RIOTS AND UNLAWFUL ASSEMBLIES.

§ 373. Where three or more persons are, of their own authority, assembled together with disturbance, tumult, and violence, and striking terror or tending to strike terror into others, such meeting is an unlawful assembly, within the meaning of the provisions of this chapter.

§ 374. A riot is where three or more being in unlawful assembly join in doing or actually beginning to do an act, with tumult and violence, and striking terror, or tending to strike terror into others.

§ 375. Menacing language, or gestures, or show of weapons, or other signs or demonstrations tending to excite terror in others, are sufficient violence to characterize an unlawful assembly or riot.

§ 376. Concurrence in an intent of tumult and violence, and in any violent tumultuous act, tending to strike terror into others, is a sufficient joining in intent to constitute a riot, though the parties concerned did not previously concur in intending the act. For example, where persons present at a public performance concur in the intent to disturb the same by tumult and violence, tending to strike terror; or concur in one or more acts of tumult or violence tending to strike terror, done by any of the assembly.

§ 377. It is not requisite in order to constitute an unlawful assembly or riot that persons should have come together with a common or unlawful intent, or in any unlawful manner; or that the object of the meeting, or the act done or intended, should of itself be unlawful. The tumult and violence tending to excite terror, characterize the offense, though the persons may have assembled in a lawful manner, and though the object of the meeting, if legally pursued, or the act done or intended, if performed in a proper manner, would be lawful.

§ 378. Persons present at a riot or unlawful assembly, and promoting the same, or aiding, abetting, encouraging or countenancing the parties concerned therein by words, signs, acts, or otherwise, are themselves parties thereto and principals therein.

§ 379. In case of an unlawful assembly being by proclamation or otherwise ordered to disperse by any one having legal authority to disperse the same, any one voluntarily remaining in the assembly after notice of such order, except for keeping the peace, is thereby a party concerned in such unlawful assembly.

§ 380. Every person present in an unlawful assembly is presumed to have notice of an order given by lawful authority in lawful manner for the same to disperse.

§ 381. Whoever is guilty of a riot or unlawful assembly, having for its object the destruction or injury of any house, building, bridge, wharf, or other erection or structure; or the destruction or injury of any

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ship or vessel, or the furniture, apparel, or cargo thereof, shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding five hundred dollars, and shall also be answerable to any person injured to the full amount of his damage.

§ 382. Whoever is guilty of being a party concerned in a riot or unlawful assembly endangering the life, limb, health, or liberty of any person, or in any other riot or unlawful assembly not of the description designated in the above section, shall be punished by imprisonment at hard labor not more than five years or by fine not exceeding one thousand dollars.

§ 383. In case of any riot or unlawful assembly in any town, village, or district, it shall be the duty of every district magistrate there resident, and also of the chief sheriff, sheriff of the island, and his deputies, and of the prefect of police for said town, village, or district, to go among the persons so assembled, or as near to them as may be with safety, and in the name of the government to command all the persons so assembled immediately and peaceably to disperse; and if the persons shall not thereupon so disperse, it shall be the duty of each of said officers to command the assistance of all persons present in seizing, arresting, and securing in custody the persons so unlawfully assembled, so that they may be proceeded with for their offense according to law.

§ 384. If any persons riotously or unlawfully assembled, who have been commanded to disperse by the chief sheriff, sheriff, deputy sheriff, prefect of police, or district magistrate, shall refuse or neglect to disperse without unnecessary delay, any two of such officers may require the aid of a sufficient number of persons in arms, or otherwise, as may be necessary, and shall proceed in such manner, as in their judgment shall be expedient, forthwith to disperse and suppress such unlawful, riotous, or tumultuous assembly, and seize and secure the persons composing the same, so that they may be proceeded with according to law.

§ 385. Whenever an armed force shall be called out for the purpose of suppressing any tumult or riot, or unlawful assembly, or to disperse any body of riotous men, such armed force shall obey such orders for suppressing the riot or tumult, or for dispersing and arresting the persons who are committing any of the said offenses, as they may receive from the chief sheriff, sheriff of the island, or prefect of police, and also such further orders as they may receive after they shall arrive at the place of such unlawful, riotous, or tumultuous assembly, as may be given by any two of the magistrates or officers mentioned in the preceding section.

§ 386. If by reason of the efforts made by any two or more of said magistrates or officers, or by their direction, to disperse such unlawful, riotous or tumultuous assembly, or to seize and secure the persons composing the same, who have refused to disperse, any such person or any other person then present, as spectators or otherwise, shall be killed or wounded, the said magistrates and officers and all persons acting by their order or under their direction shall be held guiltless and justified by law, and if any of said magistrates or officers, or any person acting under their authority or by their direction shall be killed or wounded, all the persons so at the time unlawfully, riotously, or tumultuously assembled, and all other persons who, when commanded or required, shall have refused to aid and assist the said magistrate or officers, shall be held answerable therefor.

NOTE TO CHAPTER 38.

§§ 373–386 are P. C. ch. 38, unaltered.

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CHAPTER 39.

GAMBLING.

§ 387. Every person who contrives, prepares, sets up, draws, maintains, or conducts, or assists in maintaining or conducting, any lottery, is guilty of a misdemeanor.

§ 388. A lottery is any scheme for the disposal or distribution of property by chance among persons who have paid or promised to pay any valuable consideration for the chance of obtaining such property, or a portion of it, or for any share or any interest in such property upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle, che fa, pakapio, gift enterprise, or by whatever name the same may be known.

§ 389. Every person who sells or buys, gives or receives, has in possession or in any manner whatever deals with any ticket, chance, share, or interest, or any paper, certificate, or instrument purporting or understood to be or to represent any ticket, chance, share, or interest in or depending upon the event of any lottery, is guilty of a misdemeanor.

§ 390. All moneys or property offered for sale or distribution in violation of any of the provisions of sections 387 to 398 are forfeited to the Government and may be recovered by information filed or by action brought by the attorney-general or his authorized representative.

§ 391. Every person who deals, plays, or carries on, opens, or causes to be opened, or who conducts either as owner or employee, whether for hire or not, any game of faro, monte, roulette, tan, fan tan, or any banking or percentage game played with cards, dice, or any devices for money, checks, credit, or any representative of value, or any other game in which money or anything of value is lost or won, and every person who plays or bets at or against any of said prohibited game or games, and every person present where such game or games are being played or carried on, is guilty of a misdemeanor.

§ 392. Every person who by the game of "three card monte," "shell game," or any other game, device, sleight of hand, pretension to fortune telling, trick, or other means whatever by use of cards or other implements or instruments, or while betting on sides or hands of any such play or game, fraudulently obtains from another person money or anything of value, is guilty of a misdemeanor.

§ 393. Every person duly summoned as a witness for the prosecution on any proceeding had under sections 387 to 398 who neglects or refuses to attend as required, is guilty of a misdemeanor.

§ 394. No person otherwise competent as a witness is disqualified from testifying as such concerning any offense committed under sections 387 to 398 on the grounds that such testimony might criminate himself, but no prosecution can afterwards be had against him for any such offense concerning which he has testified.

§ 395. Every person who lets or permits to be used any building or vessel, or any portion thereof, knowing that it is to be used for setting up, managing, or drawing any lottery, or for the purpose of selling or disposing of lottery tickets, chance, share, or interest in or depending upon the event of any lottery, or who knowingly permits any game or games prohibited by sections 387 to 398 to be played, conducted, or dealt in any building or vessel owned or rented by such person in whole or in part, is guilty of a misdemeanor.

§ 396. Every person who bets or gambles upon any horse race, boat

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race, ball game, bicycle race, or any athletic game, sport, or contest, in any manner whatsoever, either by risking money or any other thing of value, is guilty of a misdemeanor.

§ 397. Every person guilty of a misdemeanor as provided in sections 387 to 398 shall be punishable by a fine of not more than one thousand dollars, or imprisonment at hard labor not exceeding one year.

§ 398. District magistrates shall have jurisdiction to try and determine all cases arising under sections 387 to 398.

CIVIL REMEDIES.

§ 399. Whoever shall by playing at cards or any other game, or by betting on the sides or hands of such as do play, lose any sum of money or thing of value, and shall pay or deliver the same or any part thereof, may sue for and recover the money or value of the thing so lost and paid or delivered, from the winner thereof.

§ 400. In case the person so losing such money or any thing of value shall not within three months after such loss, in good faith and without collusion, prosecute with effect and without unreasonable delay for such money or other thing of value, it shall be lawful for any constable or other officer or person to sue for and recover treble the value of such money or other thing, with full cost of suit, the one-half of which shall go to the person so prosecuting, and the other half to the Government for the use of common schools.

§ 401. All notes, bills, bonds, mortgages, or other securities or conveyances whatever, in which the whole or any part of the consideration shall be for any money or other thing of value won by playing at cards or any other game, or by betting on the sides or hands of any person gaming, or for reimbursing or repaying any money knowingly lent or advanced for any gaming or betting, or lent and advanced at the time and place of such gaming and betting, to any person so gaming and betting, shall be void and of no effect, as between the parties to the same, and as to all persons, except such as shall hold or claim under them, in good faith and without notice of the illegality of the consideration of such contract or conveyance, and whenever any mortgage or other conveyance of lands shall be adjudged void, under the provisions of this section, such lands shall enure to the sole use of and benefit of such person as would be then entitled thereto if the mortgagor or grantor were naturally dead; and all grants or conveyances for preventing such lands from coming to or devolving upon the person to whose use and benefit the said lands would so enure shall be deemed fraudulent and of no effect.

§ 402. In every suit brought to recover any money or other thing of value, as provided in section 399 of this chapter, both the plaintiff and defendant shall be competent witnesses; and no person other than the parties shall be excused from testifying, touching any offense committed against any of the foregoing provisions relating to gaming, by reason of his having played, betted, or staked at any game; but the testimony of any such person shall not be used against him in any suit or prosecution authorized by any of the foregoing provisions.

NOTE TO CHAPTER 39.

§§ 387–395, 397–398 are P. G., Act 21. § 396 is S. L., 1896, Act 16. §§ 399–402 are P. C., ch. 39, §§ 5–8.

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Cases in Hawaiian Reports: King v. Ah Lee, 5 Haw., 545; King v. Yeong Ting, 6 Haw., 576; In re Ah Mook, 6 Haw., 664; Rex v. Lum Hung, 7 Haw., 344; R. v. Kaka, 8 Haw., 305; Govt. v. Ah Hum, 9 Haw., 97; Govt. v. Aloiau, 9 Haw., 400; R. v. Alani, 8 Haw., 533.

CHAPTER 40.

NIGHT.

§ 403. All loud noise by night is taboo. Whoever after sunset shall by hallooing, singing in the streets, or in any other way make any disturbing or disorderly noise in any village, town, or port of this Territory, without justifiable cause for so doing, shall be liable to summary arrest and imprisonment by any constable or police officer, and upon conviction be punished by a fine not exceeding ten dollars.

§ 404. All keepers of coffee, victualing, liquor and billiard saloons, and bowling alleys, and also sugar mills, are hereby strictly forbidden to allow any school children, boys or girls, to remain upon their premises any time between the hours of sunset and sunrise, unless the same be accompanied by their parents or guardians. Any keeper of a coffee, victualing, liquor, or billiard saloon, or bowling alley, upon whose premises any school child, boy or girl, may be found between the hours above named, unless the same be accompanied by its parent or guardian, shall be deemed guilty of an offense, and shall be punished by a fine of not more than twenty dollars, upon conviction before any district magistrate, and his license may be revoked by the treasurer, in his discretion.

§ 405. If any keeper or keepers of any of the public places enumerated in section 404 shall find difficulty in clearing their premises of school children, the same may call in the assistance of the police or constables, who shall first order all such school children to return to their homes; and, if such order be not obeyed by the said children, the police or constables shall proceed to apprehend all such children who shall not have proceeded to their homes, and cause them to be detained in the lockup overnight, to be brought before the district magistrate on the following morning, to be punished according to the provisions of the law relating to truancy.

CURFEW LAW.

§ 406. Any child under fifteen years of age who, except in case of necessity, shall go or remain on any public street or highway after nine o'clock in the evening and before four o'clock in the morning, unaccompanied by an adult person, shall be punished by a fine of not more than five dollars or by imprisonment not exceeding fourteen days.

§ 407. Any parent or guardian having the care, custody, and control of a child under fifteen years of age who, except in case of necessity, shall knowingly and voluntarily suffer or permit such child to go or remain on any public street or highway after nine o'clock in the evening and before four o'clock in the morning, unaccompanied by an adult person, shall be punished by a fine of not more than ten dollars or by imprisonment not exceeding twenty days.

NOTE TO CHAPTER 40.

§ 403 is S. L., 1876, ch. 15, C. L., p. 575. §§ 404–405 are S. L., 1870, ch. 23, C. L., p. 542. §§ 406–407 are S. L., 1896, Act 29.

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CHAPTER 41.

INTOXICATING LIQUORS.

PART I.—MANUFACTURE OF SPIRITUOUS LIQUORS.

§ 408. The treasurer is hereby authorized to grant to any party or parties applying therefor a license to distill spirituous liquors, subject to the terms, conditions, and restrictions hereinafter set forth.

§ 409. All persons applying for a license under sections 408–421 shall, before receiving the same, file a bond, with one or more sureties (in form similar to the following), which bond must be approved by the treasurer:

Know all men by these presents, that we, ——— ———, principal, and ——— ———, surety, are held and firmly bound unto the treasurer, for the use of the government of Hawaii, in the penal sum of one thousand dollars lawful money, to be levied on our respective joint and several property in case the conditions hereinafter set forth shall be violated.

For the just and full payment of which we hereby jointly and severally bind ourselves, our heirs, executors, administrators, and assigns.

Sealed with our seals and dated this —— day of ———, A. D. 189—.

The condition of the obligation is as follows: That whereas the above bounden principal has applied for a license to distill spirituous liquors in accordance with the law enacted on the —— day of ———, 189—, and has complied with the requisition of the said law, and has consequently become entitled to a license to distill spirituous liquors in accordance with the statute in such cases made and provided, for the term of one year from date: Now, therefore, if, during the continuance of this license, the said ——— shall not contribute to the violation of any of the laws of this Territory, nor violate any of the conditions of said license, or of this act, or of any of the rules and regulations published, as hereinafter provided, by the treasurer, then this obligation shall be void; otherwise, upon proof being made to the satisfaction of the district magistrate, without the intervention of a jury, the penalty mentioned in his bond shall be forfeited and the license of the said ——— so granted shall be void.

Given under our hands and seals the day and year above written.

In the presence of ——— ———

——— ———

§ 410. Such license shall be for one year from its date, and before granting such license the treasurer shall receive from the licensee the sum of two hundred and fifty dollars as a license fee.

[§§ 411–413].

§ 414. The said licensee shall not sell spirituous liquors, manufactured by him, for consumption in this Territory in quantities less than ten gallons.

§ 415. Any person who shall distill spirituous liquors without having a license according to law shall be punished by a fine of not more than one thousand dollars nor less than one hundred dollars and by imprisonment at hard labor for not less than three months nor more than one year.

§ 416. At the time of filing the application mentioned for a license under sections 408–421, the applicant shall furnish to the treasurer a sworn certificate showing the exact location of the premises in which such spirituous liquors are to be manufactured, together with a description of such premises.

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§ 417. The premises upon which the spirituous liquors are manufactured under the license herein provided for shall at all times be open to free inspection by the police.

§ 418. The treasurer, by and with the consent of the governor, may make from time to time such rules and regulations, not inconsistent with sections 408–421, that may be necessary for the protection of the revenue and public good order, which rules and regulations shall be published in a newspaper and shall have the force of law.

§ 419. Unless herein otherwise provided any violation of the provisions of sections 408–421 by the licensee shall subject him or them to a fine of not less than one thousand dollars and the said bond and license shall be forfeited, and the penalty of said bond may be recovered and enforced before a circuit judge at chambers without the intervention of a jury.

§ 420. Any person, except the licensee, as aforesaid, violating the provisions of sections 408–421 shall upon conviction be fined not less than five hundred dollars, unless a different penalty is hereinbefore provided.

§ 421. The several district magistrates shall have jurisdiction to hear, determine, and pass sentence for all violations of sections 408–421, except in prosecutions for perjury under section 413.

Part II.—Manufacture and Sale of Intoxicating Liquors.

§ 422. The following words, unless where the contrary appears from the context, are used in sections 422–463 with the meaning hereby assigned to them, respectively:

"Spirituous liquors" shall mean any wines, spirits, ale, cider, perry, beer, or other fermented or distilled liquors, and all liquors of an intoxicating nature. "Sunday" shall mean the time between 11 of the clock on the evening of Saturday and 5 of the clock on the morning of the succeeding Monday.

But nothing in sections 422–463 shall apply to any person selling any spirituous or distilled perfume *bona fide* as perfumery; nor to any duly qualified and licensed physician or surgeon, chemist, or druggist who may administer or sell any spirituous liquors for medicinal purposes.

§ 423. The licenses issued under sections 422–463 shall be signed by the treasurer and sealed with the seal of his department, and shall not be transferable except as hereinafter provided; and shall be in force for one year from the date of issue.

§ 424. Whoever shall manufacture for sale any intoxicating drink or substance in this Territory shall be liable to a fine not exceeding five hundred dollars, and in default of payment of such fine shall be imprisoned at hard labor for a term not exceeding two years.

§ 425. The possession of distilled liquor shall be *prima facie* evidence of the distillation thereof, and it shall be incumbent on the party or parties having possession thereof to prove their innocence of distilling the same.

§ 426. All spirituous liquors imported under the name of perfumery or preserved fruits with the intention of evading the laws relating to duties shall be liable to seizure, condemnation, and sale for the benefit of the public treasury.

§ 427. All stills, distilling apparatus, or other articles in use, except as provided in section 415, or having been used in distilling spirituous liquor or other intoxicating drinks or substances within this Territory, and also all spirituous liquors and all other intoxicating drinks or substances manufactured for sale within this territory shall be forfeited to

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the government of Hawaii, and may be seized and taken possession of by the chief sheriff, deputy chief sheriff, sheriffs or their deputies, or by any constable; and all articles so seized by any other officer than the chief sheriff, deputy chief sheriff, or sheriffs, shall without delay be delivered into the care of the chief sheriff, deputy chief sheriff, or sheriff nearest the place of seizure, who shall cause a notice of such seizure to be published in some newspaper, and unless the owner or some person authorized to claim possession thereof shall, within twenty days from the day of such notice of seizure, file with the officer having the same in possession a written claim to such property so seized, it shall be held to be condemned as forfeited to the government of Hawaii; and in all cases where the owner or some person claiming the right of possession shall file a written claim as herein provided, it shall be the duty of the chief sheriff, deputy chief sheriff, or sheriff having the property in possession to furnish to the attorney-general a written statement of the facts, who is hereby authorized and required to take legal measures to have the question determined whether the property seized has been forfeited in accordance with the provisions of this section.

§ 428. The treasurer shall have power to grant a wholesale vending license for spirituous liquors to any person having a license to sell goods, wares, and merchandise at wholesale, applying therefor in writing, and stating in his application the name the vendor and where the applicant intends to establish his place of business.

§ 429. The wholesale vending of spirituous liquors shall consist of selling the same in quantities not less than the packages originally imported and in no other manner: Provided, That no part thereof shall be drank or used on the premises where they are sold, or in any other house or premises contiguous thereto, procured or rented for that purpose by the party holding such license, or any other person or persons whatsoever through his agency, under the penalty of forfeiting his license and incurring the penalties of the law and his bond.

§ 430. Before granting such wholesale license to vend spirituous liquors, the applicant shall pay, for the use of the government of Hawaii, five hundred dollars, and give a bond to the treasurer in the penalty of one thousand dollars, with at least one sufficient surety to be approved by said treasurer.

§ 431. The treasurer shall have power in like manner to grant licenses to be called "Dealers' licenses" to any person for the vending of wine, ale, and other spirituous liquors, upon such person applying therefor in writing, and stating in his application the name of the vendor and where the applicant intends to establish his place of business.

§ 432. Any person having obtained a license in accordance with the preceding section may sell ardent spirits in quantities not less than one gallon; wines, ales, and other liquors containing alcohol in quantities not less than one dozen bottles: Provided, That the same and no part thereof shall be drank or used on the premises where they are sold, or in other house or premises contiguous thereto, procured or rented for that purpose by the party holding such license, or any other person or persons whatsoever through his agency, under the penalty of forfeiting his license and incurring the penalty of the law and his bond.

§ 433. Before granting such license to any person to vend wine, ale, and other spirituous liquors, as prescribed in sections 431 and 432, the applicant shall pay to the treasurer for the use of the exchequer the sum of five hundred dollars and give a bond to the treasurer in the penalty of one thousand dollars, with at least one surety, to be approved by the said treasurer.

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§ 434. The treasurer shall have the power to grant licenses to retail spirituous liquors, upon application in writing, stating the name of the vendor and where the applicant intends to establish his place of business in each district.

§ 435. Before the granting of a retail license to vend spirituous liquors, as contemplated in the preceding section, the applicant shall pay to the treasurer, for the use of the government of Hawaii, the sum of one thousand dollars, and shall give a bond in the sum of one thousand dollars, with one sufficient surety, to be approved by said treasurer.

§ 436. Such last-mentioned license shall authorize the licensee to sell and dispose of any spirituous liquors, by the glass or bottle, on the premises therein specified, between the hours of half-past five o'clock in the morning and half-past eleven o'clock at night, on every day except Sunday.

§ 437. It shall not be lawful for any retailer of spirituous liquors to sell the same to minors or women, or to any person or persons who may be habitually intemperate.

§ 438. The treasurer, by and with the consent of the governor, shall have the power, and it shall be his duty, to fix the limits or boundaries within which those obtaining a license contemplated by sections 422–463 shall carry on and transact such business, and shall cause public notice to be given of the same, and he shall designate in the license the house or store or place in which such licensed person shall be authorized to pursue his business, and the license so granted shall not be transferable except as hereinafter provided, or held to authorize such business to be carried on by any person or persons or at any other place than such as may be designated in the license: Provided, That until the governor shall recommend an alteration in the limits within which spirituous liquors may now be sold, such limits shall apply to licenses issued under this act: And provided, That the governor may authorize the treasurer to grant and issue licenses for the vending of spirituous liquors at retail outside of the limits of the city of Honolulu, upon and subject to such terms and conditions as the governor may think proper, provided that the license fee shall be the same as provided by section 435.

§ 439. The sale and vending of spirituous liquors shall be regulated as to the time, place, quantity, and manner in which the licensee is by such license authorized to sell and dispose of such liquors by the terms of the license consistently with existing statutes, and any person who shall sell, or cause to be sold, any spirituous liquors, except as regulated by his license or by law, shall, for the first offense, be fined two hundred and fifty dollars, and for the second offense be fined five hundred dollars and forfeit his license: Provided, That in the event of the destruction of the premises wherein such traffic is carried on the treasurer may, at his discretion, give such licensee permission in writing to carry on such traffic, for the remainder of the time for which such license was granted, on premises other than those mentioned in the license.

§ 440. All persons applying for a license under the provisions of this act shall, before receiving the same, file a bond (in form similar to the following), the same being always subject to the approval of the treasurer:

Know all men by these presents, that we ———, principal, and ———, surety, are held and firmly bound unto the treasurer, for the use of the government of Hawaii, in the penal sum of ——— dollars, lawful money, to be levied on our respective joint and several property in case the conditions hereinafter set forth shall be violated.

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For the just and full payment of which we hereby jointly and severally bind ourselves, our heirs, our executors, administrators, and assigns.

Sealed with our seals and dated this —— day of ———, 18—.

The condition of this obligation is as follows: That whereas the above bounden ——— has this day applied for a license to vend spirituous liquors in accordance with the law approved on the —— day of ———, 18—, entitled "An act to regulate the sale of spirituous liquors," and has complied with all the requisitions of law, and has consequently been granted a license to vend spirituous liquors in accordance with such law for the term of one year from date: Now, therefore, if during the continuance of this license the said ——— shall not be convicted of felony, perjury, or other infamous offense, or of any offense against or violation of the revenue laws, or of any other offense under the said statute involving a forfeiture of the said license, a copy of which is hereto annexed, then this obligation shall be void. Otherwise, upon proof being made to the satisfaction of a district magistrate, without the intervention of a jury, the penalty mentioned in the bond shall be forfeited and the license of the said ———, this day granted, shall be void.

Given under our hands and seals the day and year above written.

——— ———.

In the presence of— ——— ———.

——— ———.

§ 441. Upon the violation of any of the conditions of his bond by any licensed dealer in spirituous liquors, it shall be the duty of the treasurer to pass said bond to the attorney-general of the Territory for enforcement against the parties thereto, both principal and surety, with such information as has come to his knowledge in regard to any violation.

§ 442. The treasurer shall keep, in a book of licenses, the names of all licensed vendors of spirituous liquors throughout the Territory, their respective places of abode, the character of the license granted to them, and the amount of license money paid by each, together with the date of such license.

§ 443. It shall not be lawful to issue a license for the retailing of spirituous liquors for any house or premises where any other business except that of victualing housekeeper under a license to such retailer is carried on, or that has any communication with any other house or premises where any business (except as aforesaid) is carried on.

§ 444. Any person, other than the agent or servant of a person thereto licensed, who shall sell or dispose of any spirituous liquors within this Territory, or shall cause or authorize therein any spirituous liquors to be sold or disposed by any person employed, hired, or engaged for such purpose, without being thereto authorized by license as in sections 422–463 provided, shall, for the first offense, be fined not less than one hundred dollars nor more than five hundred dollars, and for every subsequent offense shall be imprisoned for not less than three months nor more than six months, at hard labor, and shall also be fined not less than five hundred dollars nor more than one thousand dollars.

§ 445. If any holder of a license shall suffer any person to play any unlawful game or sport within the said licensed premises or the appurtenances thereto, or suffer any one to play at billiards or any other game in his house or premises on a Sunday, or permit prostitutes or drunken or disorderly persons to be on his premises, he shall forfeit and pay for every such offense any sum not exceeding one hundred dollars.

§ 446. Any holder of a license who shall sell or retail any spirituous

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liquor, or permit or suffer the same to be drunk in his house or premises on Sundays shall be liable to a penalty not exceeding two hundred dollars. But this section shall not apply to the ordinary supplies furnished to *bona fide* boarders and lodgers in the house or premises.

§ 447. If any person holding a license under sections 422–463 shall be convicted twice within a period of twelve consecutive months of any offense against the provisions of sections 422–463, the magistrate before whom such person has been convicted shall by an order under his hand in the form in the schedule declare such license to be forfeited, and the same shall thereupon be void, and it shall be the duty of the attorney-general to sue for and enforce the penalty of the bond given by such licensee, and such licensee shall be and be deemed incapable of ever again holding a license under sections 422–463.

SCHEDULE.

Be it remembered that on the —— day of ———, A. D. ——, complaint was made before ——— (district magistrate), of ———, A. B. being the holder of a ——— license, for that (here set out the acts which have caused the forfeiture) or proof was made to me that A. B. being the holder of a ——— license, was twice within a period of twelve consecutive months convicted under the provisions of an act entitled "An act to regulate the sale of spirituous liquors," (that is to say) on the —— day of ———, A. D. —— under the ——— section of the said act, and on the —— day of ——— under the ——— section of the said act. Now I do therefore adjudge that the said license of the said ——— shall be forfeited.

Given under my hand this —— day of ———, A D. ——.

——— ———.

§ 448. No holder of a license shall, either in his house or any of the appurtenances thereto, supply any spirituous liquor to any person in a state of intoxication, under a penalty for each offense of any sum not less than fifty nor more than two hundred and fifty dollars. And if any such intoxicated person remain more than three hours on such premises the holder of such license shall in each such case be liable to the same penalty.

§ 449. No holder of a retail license shall recover any debt or demand on account of any spirituous liquor supplied by him to any person for consumption on the premises, but the holder of such license may sue for and recover the value of any spirituous liquor supplied with meals to any person *bona fide* lodging or boarding in the house.

§ 450. If any holder of a retail license shall receive in payment or ask a pledge for any spirituous liquor or entertainment supplied in or from such licensed house anything except current money or checks on bankers, or orders for payment of money, he shall for each such offense pay a penalty not exceeding fifty dollars.

§ 451. If any holder of a license shall be convicted of felony, perjury, or of any infamous offense, or of any offense against the revenue laws, or, if holding a retail license, he shall permit any person to manage, superintend, or conduct the business of such during his absence for a longer period than forty-two consecutive days in any one year without the previous consent in writing of the treasurer, or shall allow such house to become ruinous or dilapidated, then, upon complaint thereof and proof of any of the facts aforesaid to the satisfaction of any district magistrate, such magistrate shall, by an order under his hand in

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the form of the second schedule, declare such license to be forfeited, and the same thereupon shall cease. But if such house shall have become ruinous or dilapidated by reason of fire, tempest, or any other cause beyond the control of the licensee, the license shall not be forfeited until a reasonable time has elapsed for the reinstation of such house.

§ 452. If any licensed person shall sell or offer for sale any adulterated spirituous liquor he shall forfeit and pay for every such offense any sum not less than one hundred dollars nor more than five hundred dollars. And in order to analyze such spirituous liquor any justice may, on complaint on oath made to him that any such spirituous liquor is, or is believed by such complainant to be, adulterated, and on the deposit by such complainant of the sum of five dollars to defray the expense of such analysis, authorize the seizure of such suspected spirituous liquor and cause the same to be analyzed by some competent person, and the expenses of such analysis shall be a portion of the costs which such justice shall order to be paid by the person convicted.

§ 453. Any district magistrate, the chief sheriff, his deputy, or any sheriff, deputy sheriff, or constable may, without warrant, seize and take away all such spirituous liquor as he shall have reasonable cause to suspect is carried about for sale or to be exposed or offered for sale in any highway or footpath, or in any booth, tent, store, or shed, or in any other place whatever, by any person not licensed to sell the same, and all vessels and utensils used for containing, drinking, or measuring the same. And such magistrate, on proof of such offense, may convict any person so offending, and may thereupon sentence such offender to pay a fine of not more than two hundred and fifty dollars and not less than fifty dollars, and to imprisonment at hard labor for any term not more than six months and not less than one month; and one-half of the fine shall be paid to the party who gave the information which led to such conviction; and such magistrate shall, upon such conviction, adjudge such spirituous liquor, and the vessels and utensils used for containing, drinking, or measuring the same, to be forfeited, and may direct the same to be sold on account of the Government of Hawaii: Provided, however, That in all cases where such liquor is seized while being carried on the way from one place to another the burden of proving that such liquor was not carried for sale or to be exposed or offered for sale shall be upon the person or persons owning or claiming the same.

§ 454. Any person not the holder of a license, keeping up any sign, writing, painting, or other mark in or near his house or premises, or having his house or any part thereof fitted up with a bar or other place containing bottles or casks displayed so as to induce a reasonable belief that spirituous liquor is sold or served in such house or premises, or there being on such premises more spirituous liquor than is reasonably required for the use of the persons residing therein, shall be deemed *prima facie* evidence of the unlawful sale of spirituous liquor by such person.

§ 455. Upon information on oath before any district magistrate by any person that he believes that spirituous liquor is sold by any person without a license or contrary to the provisions of this act in any house or place, such justice shall grant his warrant to any constable to enter and search such house or other place and seize all such spirituous liquor as aforesaid as he shall then and there find, and any vessel or vessels containing such spirituous liquor, and detain the same until the owner thereof shall appear before such justice to claim such spirituous liquor

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or vessels, and shall satisfy such justice how and wherefore such owner became possessed of the same; or if such person, after being summoned, shall not appear, and if it shall appear to the said justice, after due inquiry, that such spirituous liquor was in the said house or place for the purpose of being illegally sold or disposed of, then he shall adjudge such spirituous liquor and vessels to be forfeited and sold, and the proceeds, after paying the expenses of such sale, shall be appropriated in like manner as penalties under this act.

§ 456. In all proceedings against any persons for selling or allowing to be sold any spirituous liquor without a license, such person shall be deemed to be unlicensed unless he shall at the hearing of the case produce his license.

§ 457. The delivery of any spirituous liquor, either by the owner or occupier, or by his or her servant or other person in the house or place, shall be deemed to be sufficient *prima facie* evidence of money or other consideration being given for such spirituous liquor, so as to support a conviction, unless proof to the contrary be given to the satisfaction of such justice.

§ 458. Every husband, wife, child, parent, guardian, employer, or other person who shall be injured in person or property or means of support by any intoxicated person, or in consequence of the intoxication, habitual or otherwise, of any person, or being himself or herself intoxicated, shall be thus injured in consequence of such intoxication, shall have a right of action in his or her own name, severally or jointly, against any licensed dealer in spirituous or intoxicating liquors, who shall, by selling or giving spirituous or intoxicating liquors, have caused the intoxication in whole or in part of such person or persons, for all damages sustained and for exemplary damages. And a married woman shall have the same right to bring suits under this act, and to control the same and the amount recovered as a *femme sole*. And all damages recovered by a minor under this act shall be paid either to such minor or to his or her parent, guardian, or next friend as the court shall direct.

§ 459. All suits for damages under the last preceding section may be by any appropriate action in any of the courts of the Republic having competent jurisdiction.

§ 460. No spirituous liquor shall be sold by auction upon any house or premises not licensed for the sale of spirituous liquors under this act. Any auctioneer or other person violating the provisions of this section shall be subject to the penalty hereinbefore prescribed for selling spirituous liquors without a license: Provided, That nothing herein contained shall apply to the sale by auction of spirituous liquors in bond by sample, if the owner thereof shall be duly licensed for the sale of such spirituous liquors: And provided, also, That the treasurer may, in his discretion, authorize any auctioneer to sell any such spirituous liquors by auction, when he shall be satisfied that the said liquors are the property of a private person, and are not sold for profit or by way of trade.

§ 461. Every person who, being intoxicated, shall enter any premises licensed for the sale of spirituous liquors, or being intoxicated upon said premises, shall not leave the same when requested by the licensee or by any person in his employ, may be arrested by any constable, and shall, on conviction, pay a fine of ten dollars.

§ 462. Every person who shall be found drinking on any licensed premises during prohibited hours or on Sunday, shall be liable to the same penalty as the licensee is subject to for keeping open his licensed

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house at times not allowed by his license, and such persons may be arrested by any constable or peace officer.

§ 463. Any person who shall import into this Territory any spirituous liquors, unless holding a license under this act, or unless the same is for his own private use, shall, on conviction before any district magistrate, be subject to a fine of five hundred dollars, and in default of payment may be imprisoned at hard labor for any term not exceeding two years.

§ 464. If any agent, servant, or employee of the holder of a license to retail spirituous liquors shall do or commit any act now prohibited by law from being done or committed by the holder of such license, such agent, servant, or employee shall be liable to a penalty of two hundred and fifty dollars for the first offense, and not less than two hundred and fifty dollars nor more than five hundred dollars for the second offense; and shall thereafter be, and be deemed, incapable of ever again acting as an agent, servant, or employee of the holder of a license to retail spirituous liquors, and any such holder who shall knowingly employ any person convicted of a second offense under this section shall be deemed to have forfeited his license.

§ 465. If the agent, servant, or employee of the holder of a license to retail spirituous liquors shall be convicted of a second offense under sections 464–465 or other enactment relating to the sale of spirituous liquors, such holder shall be deemed to have forfeited his license, provided the first offense of which such agent, servant, or employee was convicted shall also have been committed while in the employ of such holder.

Part III.—Illicit Traffic.

§ 466. It shall be unlawful, from and after the passage of sections 466–471, for any person or persons conducting or carrying on any business or trade for the carrying on of which a license is required by the government, or for any other person except druggists, physicians, and licensed dealers in spirituous liquors, to have or keep or permit on or about the premises where such business or any portion thereof is carried on, or where any portion of the stock used or kept for such business is stored, any spirituous liquors, except for the use of those engaged on the premises, and which shall not exceed at any time one-half gallon of wine or beer or one quart of ardent spirits. The definition of the term spirituous liquor herein shall be the same as is contained in section 422.

§ 467. It shall be unlawful for any licensed peddler, trader, or storekeeper, or any bookkeeper, clerk, or employee of such peddler, trader, or storekeeper, except such as are licensed to deal in spirituous liquor, to forward to any other person any order for the forwarding, sale, or purchase of spirituous liquors, with intent that such spirituous liquors shall be forwarded, sold, or furnished, either directly or indirectly, by the person or persons to whom such order is sent or given, to or for the use of any person or persons other than the person or persons who shall forward such order.

§ 468. It shall be unlawful for any person, not being a licensed dealer in spirituous liquors or a common carrier of goods, to receive into or have in his possession, custody, or control, at any point outside the city of Honolulu, any spirituous liquor with intent to sell, transfer, or dispose of such spirituous liquor, or any part thereof, to any other person or persons.

§ 469. It shall be unlawful for any person, whether he be a licensed

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dealer in spirituous liquors or not, to bill, ship, or send by or upon, or to place or cause to be placed on board of any steamer, ship, or vessel engaged in the carrying trade between any of the ports of this Territory any spirituous liquors with the intent that the same shall be conveyed or carried by or upon such steamer, ship, or vessel, and delivered to some third person or persons, except such spirituous liquor be plainly labeled with the name and quantity thereof, which label shall be written or printed in either the Hawaiian or the English language, and shall contain the names of the shipper and the consignee of such liquor, respectively.

§ 470. It shall be lawful for any police officer to seize and detain any spirituous liquor held by any person in contravention of sections 466, 468, or 469, and any liquors so seized may be declared by the court before which such case shall be brought to be forfeited to the use of the government of Hawaii; all liquors so forfeited shall be sold, and the proceeds thereof, less expenses of seizure and sale, shall be returned by the chief sheriff to the treasury as a government realization.

§ 471. Any person who shall violate any provision of sections 466 to 470, inclusive, shall, upon each conviction thereof before any district magistrate, be fined a sum not less than twenty-five dollars nor more than two hundred dollars.

Part IV.—Brewing of Malt Liquors.

§ 472. The treasurer is hereby authorized to issue a license for the brewing of malt liquors in the district of Honolulu, on the island of Oahu, for a term of fifteen years: Provided, however, That no sales of such malt liquors shall be made by the owner of the license in less quantity than five gallons in bulk, or if in bottles, not less than two dozen quart bottles, or four dozen pint bottles.

§ 473. The owner of the license shall upon the receipt thereof pay to the treasurer one hundred and fifty dollars for each year, and shall pay a special tax of five cents a gallon for all malt liquors made and sold by him.

§ 474. The treasurer is hereby authorized to remit import duties upon such articles used for the purpose of brewing malt liquors as may be admitted free of import duties without conflicting with existing treaties.

§ 475. The owner of the license shall keep correct accounts of all malt liquors made by him, which accounts shall at all times during business hours be open to the inspection of the treasurer, and shall make at the end of each quarter to the treasurer a sworn report of the quantity of malt liquor sold by him during such quarter, and shall thereupon pay the special tax provided by section 473 on account of the liquors sold during such quarter.

§ 476. Any person licensed to brew malt liquors under sections 472–478 who shall distill alcoholic liquors of any kind, or who shall in the manufacture of malt liquors make use of any deleterious or poisonous drug or substance, or who shall manufacture or offer for sale malt liquors of an alcoholic strength above ten per cent, shall, upon conviction before the district magistrate of said district of Honolulu, forfeit his license and be punished by a fine not exceeding one thousand dollars, or by imprisonment at hard labor for a term not exceeding one year.

§ 477. Any license granted under sections 472–478 shall become void unless the owner thereof shall be ready to begin the manufacture of malt liquors, and shall begin such manufacture within one year from the date of such license.

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§ 478. The legal representative or representatives of the person to whom the license is issued shall be the owner or owners thereof, and entitled to all the privileges and be subject to all the disabilities of sections 472–478: Provided, That no owner of such license shall voluntarily sell or transfer the same without the written consent of the treasurer.

PART V.—SALE OF MALT LIQUORS.

§ 479. The treasurer is hereby authorized to grant licenses for one year in this Territory to any person or persons making written application for the same to sell by the glass, or in any other quantity less than five gallons, malt liquors manufactured in Honolulu under sections 472 to 478, inclusive, upon receiving for each license the sum of two hundred and fifty dollars.

§ 480. The proposed location of such licensed premises shall be subject to approval by the said treasurer, and shall not be changed except by his written consent.

§ 481. Before receiving a license to sell malt liquors as above, the applicant shall file an approved bond with the treasurer in the penalty of one thousand dollars, conditioned:

First. That he will not dispose of any malt liquors to any person in a state of intoxication or to minors.

Second. That he will not sell or otherwise dispose of on the premises for which he is licensed any wines, malt liquors, or spirits of any description whatever; and also that he will not store, or allow to be stored, on the premises for which he is licensed any wines, malt liquors, or spirits of any description whatever, except such beer manufactured in Honolulu, and under the said above-mentioned sections.

§ 482. Such license and bond may contain any provisions which, in the opinion of said treasurer, shall be necessary to the correct regulation of the business and premises so licensed, and to prevent or detect violations of this act, or of such license or bond.

§ 483. Upon the conviction of the party so licensed for breach of any of the terms of this bond or license, the amount of such bond shall be forfeited, and, in addition to all penalties imposed by law, he shall be ineligible for a license of any class for a term of two years.

PART VI.—MANUFACTURE OF WINE FROM GRAPES OF HAWAIIAN GROWTH.

§ 484. The treasurer is hereby authorized to grant licenses for the manufacture of wine from grapes of Hawaiian growth, provided the applicant for such license shall first file with said treasurer a bond in the following form, with one good and sufficient surety:

"Know all men by these presents that we, ———, principal, and ———, surety, residing at ———, in the island of ———, Hawaiian Islands, are held and firmly bound unto ———, treasurer, and to his successors in office in the penal sum of one hundred dollars, to be levied on our respective joint and several property, in case the conditions or any or either of them herein set forth shall be violated. For the faithful payment of which we hereby bind ourselves, our heirs, executors, and administrators.

"Witness our hands and seals this —— day of ———, A. D. 18—.

"The condition of this obligation is, that whereas the said ———, principal, has this day obtained a license to manufacture wine out of grapes of Hawaiian growth for the term of three years from this date, now, if he shall not manufacture any brandy, rum, or other spirituous liquors; if he shall not manufacture wine out of grapes grown in any

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foreign country; if he shall not sell any wine manufactured under this license to any person other than to licensed dealers in spirituous liquors, or wines, or beer; if he shall, on or before the last day of December in each year, furnish the said treasurer with a sworn statement, in writing, of the quantity of wine manufactured by him during the past year, the quantity sold and still on hand, then this obligation shall be void; otherwise, upon proof being made to the satisfaction of any district magistrate of the violation of any or all of the above conditions, the penalty mentioned in the above bond shall be forfeited for the benefit of the government of Hawaii.

"[L. S.] ——— ———, *Principal.*
"[L. S.] ——— ———, *Surety.*"

§ 485. The chief sheriff or his deputy or the sheriff or deputy sheriff of the respective district shall from time to time inspect the stock of wine of a licensed manufacturer and convince themselves that no wine is or has been sold except to licensed dealers.

[§ 486.]

§ 487. Upon a forfeiture of the bond provided for in section 484 the license granted by the treasurer shall cease and determine.

§ 488. Whoever shall manufacture wine for sale without first obtaining a licenses as prescribed by sections 484–488, or who, having obtained said license, shall sell said wine otherwise than as prescribed by the conditions of the bond set forth in section 484, shall, on conviction thereof before any district magistrate, be liable to the fines and penalties prescribed for selling spirituous liquor without license.

NOTE TO CHAPTER 41.

PART I.

§§ 408 to 421 are S. L. 1892, ch. 108, repealing act of Dec. 30, 1864, and S. L. 1874, ch. 23.

PART II.

§§ 422–463 are S. L. 1882, ch. 44, C. L., p. 689, repealing P. C., ch. 41, amended as follows: §§ 425 and 430 by S. L. 1884, ch. 36; §§ 436, 437, and 444 by S. L. 1886, ch. 3; § 439 by S. L. 1887, ch. 16; § 451 by P. G., act 36; § 453 by S. L. 1886, ch. 56. §§ 464–465 are P. G., act 36.

§§ 424 and 425 are modified by § 415. The act mentioned in § 425 was repealed by S. L. 1892, ch. 108.

PART III.

§§ 466–471 are S. L. 1888, ch. 67.

PART IV.

§§ 472–478 are S. L. 1886, ch. 72.

PART V.

§§ 479–483 are S. L. 1888, ch. 46.

PART VI.

§§ 484–485, 487–488 are S. L. 1898, act 54.

Cases in Hawaiian Reports: Minister of Interior v. Glover, 3 Haw., 697; Rex v. Akana, 7 Haw., 166; Wing Wo Tai v. Haw. Govt., 7 Haw., 498; Wing Wo Chan v. Haw. Govt., 7 Haw., 501; R. v. Fernandez, 7 Haw., 506; Bradley v. Thurston, 7 Haw., 523; Rex v. Ah Gock, 7 Haw., 544; R. v. Gasper, 8 Haw., 234; Re Cabinet, 8 Haw., 586; Govt. v. San Tana, 9 Haw., 107; Govt. v. Sakuhachi, 9 Haw., 388.

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CHAPTER 42.

KEEPING A DISORDERLY HOUSE.

§ 489. Whoever shall keep a disorderly house shall be punished, where no other punishment is expressly provided by statute, by fine not exceeding one hundred dollars or by imprisonment at hard labor not more than six months.

§ 490. The following houses are disorderly within the meaning of the provisions of this chapter, viz:

Houses kept for the purpose of public prostitution.

Houses in which any indecent postures or indecent, immoral, or disorderly shows or sights are exhibited.

Houses kept for the sale of any intoxicating drink without license.

Houses in which gambling is permitted.

§ 491. Any part of a building appropriated to either of the purposes above enumerated is a house within the meaning of this chapter.

§ 492. The wife may be punished with the husband for keeping a house for the purpose of public prostitution.

NOTE TO CHAPTER 42.

§§ 489-492 are P. C., ch. 42, unaltered.
Cases in Hawaiian Reports: Govt. v. Wery, 9 Haw., 229.

[*CHAPTER 43.*]

[§§ 493-506.]

CHAPTER 44.

ATTEMPTS AND INSTIGATIONS.

§ 507. An attempt to commit an offense is some act done towards committing and in part execution of the intent to commit the same—as, for example, putting poison in the way of a person with intent thereby to murder him.

§ 508. A mere preparation of the means of committing any offense, nothing being done in execution of the intent to commit the same, is not an attempt to commit the same—as, for example, merely procuring poison intended to be used for murder.

§ 509. Where any offense attempted is committed by the party making such attempt, the attempt is merged in the offense.

§ 510. Where it does not appear which of two or more degrees of any offense is attempted, the lowest of such degrees is presumed.

§ 511. Whoever attempts to commit any offense for the punishment of which attempt no special provision is otherwise expressly made shall, if the offense be punishable with death or imprisonment for life, be punished by imprisonment at hard labor not more than ten years, and in any other case by fine and imprisonment, or either, in the discretion of the court, but not exceeding the punishment prescribed for such offense.

§ 512. Whoever instigates another to the commission of any offense, by commanding, soliciting, or offering to hire, or otherwise endeavoring to induce him to commit the same, shall be subject to the penalty of an attempt to commit such offense.

§ 513. The instigation is merged in the offense committed in pursuance thereof when the offense is committed in such a manner that

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the instigator is guilty thereof, by reason of his being an accessory before the fact or otherwise.

§ 514. If, before an offense is attempted in pursuance of an instigation thereto, the instigator repents and countermands the same, and endeavors to his utmost to prevent the offense, he shall not be subject to punishment for the instigation.

§ 515. No person shall be convicted of instigating another to an offense on the mere testimony of the party professing to have been so instigated, not corroborated by other evidence direct or circumstantial, except in cases where it is expressly otherwise provided.

NOTE TO CHAPTER 44.

§§ 507–515 are P. C., ch. 44, unaltered.

Cases in Hawaiian Reports: Rex v. Kaimano, 3 Haw., 565; Rex v. Leong Tiam, 7 Haw., 340; Govt. v. Oishi, 9 Haw., 644.

CHAPTER 45.

ACCESSORIES AFTER THE FACT.

§ 516. If any one not standing in the relation of husband or wife, parent or child, brother or sister, by consanguinity or affinity, to any person guilty, either as principal or accessory before the fact, of any offense punishable by death or imprisonment for life, shall harbor, conceal, maintain, or assist such person, with the intent that such person shall avoid or escape from detection, arrest, trial, or punishment, he shall be deemed an accessory after the fact to such offense, and shall be punished, where punishment for his offense is not otherwise expressly provided, by imprisonment at hard labor not more than ten years, or by fine not exceeding two thousand dollars.

§ 517. Whoever is accessory after the fact to any other offense punishable by imprisonment for five years or more shall be punished, where punishment is not otherwise provided by law, by imprisonment at hard labor not more than two years or by fine not exceeding five hundred dollars.

NOTE TO CHAPTER 45.

§§ 516–517 are P. C., ch. 45, unaltered.

Accessories before the fact, see P. L., ch. 5.

CHAPTER 46.

FORMER CONVICTION OR ACQUITTAL.

§ 518. Any person who has been tried and convicted of any offense before a court, tribunal, or magistrate having jurisdiction of the case shall not be subject to subsequent criminal prosecution therefor, and such conviction may be pleaded in bar of any such subsequent prosecution.

§ 519. No person shall be subject to be tried again for the same offense, of which he has been found not guilty and acquitted on a former trial, upon the facts and merits before a court, tribunal, or magistrate having jurisdiction of the case; and such acquittal may be pleaded in bar of any such subsequent prosecution.

§ 520. Where the same act constitutes two or more diverse and distinct offenses, different in their nature and character, one not being merged in the other, the offender may be proceeded against for each,

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and can not plead a conviction or acquittal for one in bar of proceedings against him for the other.

§ 521. Any person acquitted on trial of any charge of any offense upon the ground of variance between the indictment, information, or complaint and the proof, or upon any exception to the form or the substance of the indictment, information, or complaint, may be subsequently tried and convicted of such offense under a new indictment, information, or complaint, notwithstanding such former acquittal.

§ 522. Any public officer who is acquitted or convicted on an impeachment for any misdemeanor can not plead such conviction or acquittal in bar of a criminal prosecution for the same.

NOTE TO CHAPTER 46.

§§ 518-522 are P. C., ch. 46, unaltered.
Cases in Hawaiian Reports: Re v. Lau Chew, 8 Haw., 374.

CHAPTER 47.

SUPPRESSION OF OFFENSES.

§ 523. When anyone fears that another intends to commit an offense against his person, or property, with violence, he may apply to any district magistrate, who shall take the declaration of the applicant, under oath, reduced to writing; and if it appears that he has reason to fear the commission of such offense, the magistrate may cause the person complained of to be arrested and brought before him by warrant.

§ 524. Where anyone so arrested is brought before the justice, he shall hear any statement or proof the accused has to offer, and if from such statement and evidence it appears that the complainant has mistaken the intention of the accused, and has no cause of fear, the prisoner shall be discharged; if he fail in showing that the application is groundless, the justice shall direct the accused to give bond, in a sum proportioned to the nature of the offense, with sufficient surety that he will commit no offense against the person or property of the complainant.

§ 525. If the bond be not executed according to the order of the magistrate the prisoner shall be committed to prison, and shall remain in custody until the bond be so executed.

§ 526. If, from the nature of the evidence offered, or from the demeanor of the prisoner, the magistrate has reason to believe that the prisoner intends an offense against the person or property of any person who can not be designated, he may order the bond to be conditioned that he will commit no offense against the person or property of anyone.

§ 527. The bond shall be limited in its operation to the term of one year; but it may be for a shorter time; and at any time within the last month of the year, the complainant may renew his application, and the order for security may be renewed on the oath of the party, declaring that he still fears the execution of the prisoner's former designs, provided the magistrate, after hearing the circumstances of the case, shall deem such fear well founded.

§ 528. Any magistrate who is present when any offense, accompanied with violence, is committed, may, without any other proof, order the offender to be arrested, and compel him to give security in the manner above directed, to refrain from the exercise of any illegal force.

§ 529. Any person who knows or has reason to suspect that any offense against the person or property of another is intended to be committed, may apply to a magistrate, who shall hear the proof, and

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if he be convinced of the existence of such intention, shall cause the person accused to be arrested, and compelled to give security in the manner above directed.

§ 530. Where, upon the conviction of a person for an offense, it appears from the character of the offender or his conduct in committing the offense, there is good reason to apprehend a repetition of that offense, or the commission of some other, the court or magistrate may add to their sentence that after the execution of the punishment is complete, and before the offender, if in custody, is discharged, he shall give security in the form and for the time above directed, either that he will not commit any particular offense or any designated species of offenses, or generally, that he will commit no offense for the time limited.

§ 531. If the condition of any bond given under any of the provisions of this chapter be forfeited, it shall be put in suit by the public prosecutor, who must specify in his petition in such suit, the offense which has caused the breach of the condition of the bond.

§ 532. At any time before the breach of the condition of such bond, the surety may discharge himself by surrendering the principal into the hands of the chief marshal or chief constable of the district.

NOTE TO CHAPTER 47.

§§ 523–532 are P. C., ch. 47, unaltered.
Cases in Hawaiian Reports: Re v. Bridges, 5 Haw., 472.

CHAPTER 48.

SEARCH WARRANTS.

§ 533. Another means of preventing the commission of offenses, and of detecting them when committed, is by the issuing of search warrants.

§ 534. A search warrant is an order in writing made by a justice, or other magistrate, directed to an officer of justice, commanding him to search for certain articles supposed to be in the possession of one who is charged with having obtained them illegally, or who keeps them illegally, or with the intent of using them as the means of committing a certain offense.

§ 535. The power of granting this writ is one in the exercise of which much is necessarily left to the discretion of the magistrate, but, except in cases where this power is elsewhere specially granted by statute, search warrants can only be granted for the following purposes, viz:

To discover property taken by theft or under false pretenses, or found and fraudulently appropriated:

To seize forged instruments in writing, or counterfeit coin intended to be passed, or the instruments or materials prepared for making them:

To seize arms or munitions prepared for the purpose of insurrection or riot:

To discover articles necessary to be produced as evidence or otherwise on the trial of anyone accused of a criminal offense.

§ 536. A search warrant can be granted in no case but on an affidavit setting forth sufficient facts in the opinion of the magistrate to justify the issuing of such warrant.

§ 537. The warrant must be in writing, signed by the magistrate with his official designation, directed to some sheriff or other officer of justice; and commanding such sheriff or other officer to search for and bring before the magistrate the property or articles specified in the affidavit, to be disposed of according to justice; and also to bring before him the

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person in whose possession the property or articles may be found, for examination.

§ 538. If the search warrant be directed to a sheriff or prefect of police it may be executed by him or any of his deputies.

§ 539. Before executing the warrant the officer must give notice to the person who applied for it, that he may be present and identify the property if found.

§ 540. The officer charged with the warrant, if a house, store, or other building is designated as the place to be searched, may enter it without demanding permission if he finds it open; if the doors be shut he must declare his office and his business, and demand entrance; if the doors, gates, or other bars to the entrance be not immediately opened, he may break them. When entered, he may demand that any other part of the house, or any closet, or other closed place in which he has reason to believe the property is concealed, may be opened for his inspection, and if refused he may break them.

§ 541. If there should be reasonable cause to believe that arms or munitions of war are collected in any place for the purpose of insurrection or riot, or for carrying out any seditious or treasonable intent, or any other unlawful purpose, a search warrant may be issued in such case, with or without an order to the officer executing the same, to bring before the judge or magistrate issuing the same the person in whose possession such arms or munitions of war may be found. And in case the warrant contains no such order, such arms or munitions of war shall, if found, be brought before the judge or magistrate, and be secured by him, and he shall thereupon as soon as may be cause a notice to be published in some newspaper, describing the articles seized and giving notice of a time and place of a hearing, to take place not less than four and not more than five weeks from the publication of such notice, at which time and place all parties claiming such articles may appear and prove ownership. If no appearance shall be made at such hearing, and no action shall be brought previous to the time of the said hearing for the recovery of the said goods by parties claiming such goods, the same shall be forfeited to the government of Hawaii; but if any parties appear at such hearing claiming such goods, or shall bring action before the time of such hearing for the recovery thereof, their claim shall be heard, and if, in the opinion of the court, such claims shall not be satisfactorily proved, or if they are proved, but the court shall find reasonable cause to believe that such articles were collected for the purpose of insurrection, or riot, or for carrying out any seditious or treasonable intent, or for any other unlawful purpose, the same shall be forfeited to the government of Hawaii. In any such hearing the burden of proof shall be upon the claimant to show that such arms or munitions of war were not collected or procured for the purpose of insurrection, or riot, or for carrying out any seditious or treasonable intent, or other unlawful purpose.

§ 542. In the case of any seizure of articles by search warrant under the provisions of this chapter, no claimant shall be entitled to the delivery of such articles before judgment in an action for the recovery therefor, under the provisions of chapter 107 of the Civil Laws, or of any other provision of any other law.

NOTE TO CHAPTER 48.

§§ 533, 534 are P. C., ch. 48, §§ 1, 2. § 535 is P. C., ch. 48, § 3, amended S. L. 1876, ch. 52, C. L., p. 597. §§ 536–540 are P. C., ch. 48, §§ 4–8. §§ 541, 542 are P. C., act 34. P. C., ch. 48, § 9, repealed. S. L. 1876, ch. 52, C. L., p. 597.

Cases in Hawaiian Reports: King v. Ah Lau You, 3 Haw., 393; Hung Lung Kee & Co. v. Bickerton and Parker, 4 Haw., 584; See Hop v. Chillingworth, 5 Haw., 537; R. v. Luce, 6 Haw., 684.

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CHAPTER 49.

ARRESTS.

§ 543. No arrest of any person shall be made without first obtaining a warrant or other process therefor from some magistrate, except in the cases in this chapter hereinafter provided.

§ 544. Where a breach of the peace or other offense has been committed and the offender shall endeavor to escape, he may be arrested by virtue of a verbal order of any magistrate, or without such order if no magistrate be present.

§ 545. Anyone in the act of committing a crime may be arrested by any person present without a warrant.

§ 546. Whenever a crime is committed and the offenders are unknown, and any person shall be found near the place where the crime was committed, either endeavoring to conceal himself or endeavoring to escape, or under such other circumstances as to justify a reasonable suspicion of his being the offender, such person may be arrested without warrant.

§ 547. Policemen, or other officers of justice, in any seaport or town, even in cases where it is not certain that an offense has been committed, may, without warrant, arrest and detain for examination such persons as may be found under such circumstances as justify a reasonable suspicion that they have committed or intend to commit an offense.

§ 548. At or before the time of making an arrest, the person must declare that he is an officer of justice, if such be the case. If he have a warrant he should show it if required; or if he make the arrest without warrant in any of the cases in which it is authorized by law, he should give the party arrested clearly to understand for what cause he undertakes to make the arrest, and must require him to submit and accompany him to the jail or magistrate. This done, the arrest is complete.

§ 549. In all cases where the person arrested refuses to submit or attempts to escape, such degree of force may be used as is necessary to compel him to such submission.

§ 550. He who makes an arrest may take from the party arrested all offensive weapons which he may have about his person, and must deliver them to the magistrate, to be disposed of according to law.

§ 551. In all cases of arrest for examination, the person making the same must conduct the party arrested before the court or magistrate empowered to take such examination within forty-eight hours after his arrest, except in cases where a longer delay is absolutely necessary to meet the ends of justice.

§ 552. Whenever it is necessary to enter a house to arrest an offender, and entrance is refused, the officer or person making the arrest may force an entrance by breaking doors or other barriers; but before breaking any door he shall first demand entrance in a loud voice, and state that he is the bearer of a warrant of arrest; or, if it is in a case in which arrest is lawful without warrant, he must substantially state that information in an audible voice.

NOTE TO CHAPTER 49.

§§ 543-552 are P. C., ch. 49, unaltered.

Jurisdiction for arrests, see P. L., ch. 52.

Cases in Hawaiian Reports: Hubertson v. Cole, 1 Haw., 44; In re Flanchet, 2 Haw., 96; In re Kauffman, 2 Haw., 313; King v. Huntley, 2 Haw., 457; In re Jas. Brown, 6 Haw., 704; Re Man Nun, 7 Haw., 463; Re v. Sin Fook, 8 Haw., 186; Govt. v. Caeceres, 9 Haw., 528.

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CHAPTER 50.

BAIL.

§ 553. Bail, or the giving of bail, is the signing of the recognizance by the person and his surety or sureties, conditioned for the appearance of a prisoner at the session of a court of competent jurisdiction, to be named in the condition, and to abide the judgment of such court.

§ 554. In all cases where the offense charged is not punishable with death, the accused shall be bailable, but in no others: Provided, That where the offense charged is punishable by imprisonment for life, or for a term exceeding ten years, any justice of a court of record, but no other magistrate, shall have the power to admit the accused to bail.

§ 555. Bail may be taken by district magistrates before committing the accused for trial, but after commitment no one but the magistrate who has heard the case or a judge of a court of record can let a prisoner to bail: Provided, however, That when such bail is not furnished the prisoner shall be committed to prison.

§ 556. Every defendant appealing from the decision of any circuit judge or district magistrate in any criminal or penal prosecution shall remain in the custody of the chief sheriff or sheriff of the island until the term of the supreme or circuit court to which said defendant has appealed, unless he deposit with the chief sheriff or sheriff a good and sufficient bond in a penal sum equal to the fine or penalty imposed upon such defendant in the court below, conditioned for his appearance for trial at the supreme or circuit court as aforesaid. And in all cases where the punishment adjudged by the circuit judge or district magistrate is both fine and imprisonment, or imprisonment only, the chief sheriff or sheriff shall exact from the defendant a bond, conditioned as aforesaid, in the penal sum of not less than one hundred nor more than one thousand dollars.

§ 557. When bail is offered and taken, the prisoner must be discharged from custody or imprisonment.

§ 558. Where the offense is the illegal infliction of a wound, or any other injury that may terminate in the death of the person injured, the magistrate or court can not discharge the prisoner if it appear that there is a probability that death will ensue in consequence of such injury. In this case the party must be committed for further examination until the consequences of the injury can be ascertained.

§ 559. The amount of bail rests in the discretion of the justice or judge, but should be so determined as not to suffer the wealthy to escape by the payment of a pecuniary penalty nor to render the privilege useless to the poor. In all cases the officer letting to bail should consider the punishment to be inflicted on conviction and the pecuniary circumstances of the party accused.

§ 560. Where the punishment of the offense is a pecuniary penalty only, the bail must be greater than the highest fine that can be imposed.

§ 561. No person shall be received as a surety for the appearance of the party accused who does not own or possess property, either real or personal, within this Territory to double the amount of the bail bond. And in case the officer taking the bail shall doubt the sufficiency of such surety, he may compel the surety, either by his own oath or otherwise, to furnish proof of his sufficiency.

§ 562. A single surety will be sufficient, if he possesses and owns unencumbered real property within this Territory to double the amount for which he is bound; otherwise there must be two or more. A woman can not be received as surety.

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§ 563. When the person admitted to bail is a minor or married woman, the engagement shall, notwithstanding, be valid.

§ 564. If, owing to mistake or misrepresentation, insufficient bail has been taken, or if the sureties afterwards become insufficient, the accused may be ordered to find sufficient sureties by any magistrate, and on his refusal he may be committed for trial.

§ 565. In all cases where a magistrate shall either commit for trial or bail the accused, he may cause each of the witnesses who has been examined and has testified to any material fact or circumstance in the case to enter into a recognizance, with or without surety, at his discretion, in a sum fixed by the magistrate, conditioned for his appearance at the sitting of the court at which the accused is bound or committed to appear. If a witness shall refuse to sign such recognizance when required, he may be committed to prison by the order of the magistrate, and shall be confined until he shall be brought before the court to testify, or until he shall give the recognizance.

§ 566. Those who may have become bail for any one may at any time discharge themselves by surrendering him to the custody of the chief sheriff or sheriff of the island in which the court at which he was bound to appear shall sit.

§ 567. The magistrate who shall make any commitment or let any person to bail shall without any unnecessary delay, at the farthest within ten days, transmit to the clerk or presiding judge of the court which has legal cognizance of the offense charged all the complaints, depositions, bail bonds, bonds for the appearance of witnesses and other documents in his possession relative to the accusation.

§ 568. The names of all persons who have given bail or have become bound by recognizance to appear in any court shall be called in open court on the day they are respectively bound to appear, and if they fail to appear before the adjournment of the court their default shall be entered, and such entry shall be evidence of the breach of their appearance bonds or recognizances.

§ 569. Courts may also, on the motion of the public prosecutor, order the sheriff to arrest and bring before them any person who has been bound by recognizance or summoned to appear and give testimony and who has not attended at the time appointed, and when so arrested the said witnesses may be also fined in any sum not exceeding one hundred dollars for their neglect, and must remain in custody until they give their testimony and are discharged from farther attendance, or until they give such security as shall satisfy the court for their appearance to testify.

§ 570. Witnesses bound to appear and persons let out on bail must not only attend on the day appointed in their respective obligations, but at such other times as the court shall direct, and the obligation continues until they are discharged by the court.

§ 571. All persons charged with criminal offenses shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great.

§ 572. If the charge be for an offense not capital in its nature, the defendant may be admitted to bail before conviction as a matter of right, and such right shall continue after conviction in all cases other than those wherein a sentence of at least twenty years' imprisonment may be imposed until the final determination of any motion for a new trial, appeal, exceptions, *certiorari*, *habeas corpus*, or other proceedings which shall have been made, taken, issued, or allowed for the purpose of securing a review of the rulings, verdict, judgment, sentence, or

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other proceedings of any court or jury in or by which such defendant has been arraigned, tried, convicted, or sentenced. In all cases not capital where the punishment must be imprisonment for twenty years or more, it shall rest in the discretion of the trial court to admit the defendant to bail after conviction. No defendant entitled to bail, whether bailed or not, shall without his written consent be subjected to the operation of any sentence passed upon him while any proceedings to procure a review of any action of the trial court or jury in the premises shall be pending and undetermined.

§ 573. In cases where the punishment for the offense charged may be death or imprisonment for a term not less than ten years with or without fine, a judge or justice of a court of record, but no other magistrate, shall be competent to admit the accused to bail, in conformity with the provisions of this act. In all other cases the accused may be so admitted to bail by any judge or justice of a court of record, or by any district magistrate, and in cases where the punishment for the offense charged may not exceed two years' imprisonment with or without fine, the chief sheriff, his deputy, any sheriff or his deputy, may admit such accused person to bail.

§ 574. Unless otherwise ordered by the court, the bail bond given by any defendant prior to his conviction shall (in cases where bail after conviction is permitted either absolutely or by order of the court) be continued as the bail of such defendant after conviction, and until the final determination of any subsequent proceedings in such cause.

§ 575. Provided, however, That in cases of arrests for the offense of murder, the person arrested shall not be admitted to bail without the consent of the attorney-general, who shall have full authority to refuse bail in such cases.

NOTE TO CHAPTER 50.

§ 553 is P. C., ch. 50, § 1. § 554 is S. L. 1888, ch. 27. § 555 is S. L. 1876, ch. 16, C. L., p. 575. § 556 is C. C., § 1009. §§ 557–570 are P. C., ch. 50, §§ 4–18. §§ 571–574 are S. L. 1892, ch. 32. § 575 is P. G., act 38.

Case in Hawaiian Reports: Re Walker, 9 Haw., 175.

CHAPTER 51.

FINES AND COSTS.

§ 576. Whenever a fine is imposed by any court or magistrate, according to law, upon any person, and such fine shall not be paid within ten days after such imposition, or an appeal taken, where the trial is in a court not of record, the court or magistrate imposing such fine may issue an execution for the same, to be levied upon the offender's property, real or personal.

§ 577. When a judgment of fine and costs, or either of them, is not satisfied by immediate payment thereof, the offender so sentenced shall be committed to prison, there to remain at hard labor or otherwise, in the discretion of the court or magistrate, until such fine is paid or collected out of the offender's property as prescribed in the above section: Provided, however, That when any poor convict shall have been imprisoned for the space of one year for fine and costs, or either of them, any two magistrates may order such convict to be brought before them for examination, and if, upon inquiry, they shall be satisfied that he has not since his conviction had any estate, real or personal, with which he could have paid the sum for which he stood committed, and that he is held for no other cause, they may direct the chief sheriff of

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the Territory, or his deputy having him in custody, to discharge such convict from prison.

§ 578. Clerks of any court, district magistrates, and other officers who shall receive any fines, forfeitures, or costs imposed or awarded by any court to the use of the Government, shall keep a correct account of the same, with the names of the persons from whom the same are received, and the dates when they were received, and shall pay over the same to the treasurer, and, moreover, once in three months shall render an account of the same to said treasurer.

§ 579. If any clerk or other officer shall neglect to make such payment, or render such account, it shall be deemed a sufficient cause of removal by the power appointing such officer, and the treasurer may sue for and recover of him the amount of such fines, forfeitures, and costs, with interest from the receiving of the same, at the rate of twenty per cent and the costs of suit.

§ 580. If any officer having any person in his custody, by virtue of a sentence of court, for the payment of any sum as a fine, forfeiture, or costs, shall voluntarily or negligently suffer such person to escape, he shall be deemed to have received such fine, forfeiture, or costs at the time of the escape, and shall be held liable to pay over the same with interest and costs of suit, as provided in the preceding section.

§ 581. Whenever a person shall be convicted of an offense under any provision of the penal code of this Territory, his property shall be liable for the costs incurred in his prosecution, and the court or magistrate before whom he is tried may issue an execution therefor.

§ 582. When such costs are not paid by the party prosecuted, or collected out of his property, they shall be paid out of the treasury of the Territory, upon the order of the judge presiding at the trial.

§ 583. When any person shall be sentenced to pay a fine and costs or either of them and to be imprisoned until the same be paid, the time of his imprisonment shall be deemed to discharge the same at the rate of fifty cents a day.

NOTE TO CHAPTER 51.

§ 576 is P. C., ch. 51, § 1. § 577 is S. L. 1870, ch. 26, C. L., p. 51. §§ 578–582 are P. C., ch. 51, §§ 3–7. § 583 is S. L. 1886, ch. 23.

Cases in Hawaiian Reports: R. v. Tong Wo, 5 Haw., 22; Re Apuna, 6 Haw., 737; Re Piipiilani, 7 Haw., 102.

CHAPTER 52.

CRIMINAL JURISDICTION.

PART I.—CRIMINAL JURISDICTION OF DISTRICT MAGISTRATES.

§ 584. District magistrates shall have jurisdiction for the prosecution, trial, and sentence to punishment of any person charged with either of the following offenses, namely: Any misdemeanor, larceny in the second degree and gross cheat; also bribery, where the punishment prescribed does not exceed imprisonment at hard labor for two years, or fine of five hundred dollars.

§ 585. The district courts shall have exclusive original jurisdiction within their respective districts over all criminal offenses which are within the jurisdiction of police and district courts according to law, or which may hereafter be placed by law within the jurisdiction of district courts. And they shall have power, subject to appeal according to law, to try without a jury, and to render judgment in all cases of criminal offenses coming within their respective jurisdictions: Provided, however, That any person arrested upon a charge of having committed an offense in a district other than that in which he was arrested may elect, upon

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the consent of a duly authorized prosecuting officer, to be tried therefor in the district where he was arrested. Their criminal jurisdiction shall be coextensive with the judicial circuit in which their respective districts are situated for the purpose of the arrest, examination, commitment, and enlargement of parties accused, the issue of search warrants according to law, and to compel the attendance of witnesses.

§ 586. Every district magistrate shall have power to issue a warrant for the arrest and examination of any person charged with an offense not within his jurisdiction, where the party accused is resident, or for the time being is found within his district, and upon satisfactory evidence of the probable guilt of such person to commit him to prison for trial at the ensuing term of the circuit court of the island.

§ 587. The circuit judges shall have power to countersign the warrant of any district magistrate within their respective circuits for the apprehension of any offender who may have fled beyond the limits of the district where the warrant may have been issued, and such warrant so countersigned may be served anywhere within the judicial circuit where the same may have been issued.

§ 588. The district magistrates shall in like manner be empowered to countersign the warrant of arrest for any offender which may have been issued by any other district magistrate within the same judicial circuits, provided said offenders be found within the district of the judge so countersigning said warrant.

§ 589. The criminal jurisdiction of the district magistrates of Lihue, island of Kauai; Honolulu, island of Oahu; Wailuku and Lahaina, island of Maui; Hilo, Hamakua, North Kohala, and North Kona, island of Hawaii, over all offenses which are within the jurisdiction of district magistrates according to law, shall be, and hereby is, made coextensive with the judicial circuits in which their respective districts are situated.

§ 590. Whenever any warrant of arrest has been issued by any court of competent jurisdiction, and the accused party shall escape beyond the jurisdiction of such court, it shall be lawful for the officer to whom such warrant shall have been directed to pursue and arrest such accused party in any part of the Territory, provided that the warrant shall be first endorsed with proper words of authority from some circuit judge or district magistrate in the island where the actual arrest shall be made.

§ 591. Any officer authorized to serve warrants at the place of arrest may also serve any warrant endorsed as aforesaid.

§ 592. The supreme court may from time to time, by general rules, prescribe forms for carrying sections 590 and 591 into effect, and make all other needful regulations.

§ 593. The expenses of serving such warrant shall be adjusted by the court originally issuing the warrant, and accounted for out of any fines and penalties in its possession.

§ 594. The several district magistrates throughout the Territory shall have jurisdiction to hear and determine, subject to appeal, all complaints for any violation of the license laws, without limit in respect to the amount of penalty to be imposed for such violations.

[§ 595.]

PART II.—CRIMINAL JURISDICTION OF CIRCUIT COURTS.

§ 596. The several circuit courts shall have jurisdiction, but subject to appeal and exceptions to the supreme court, according to law, as follows:

First. Of all offenses and crimes cognizable under the authority of the

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Hawaiian laws committed within their respective circuits, or transferred to them for trial by change of venue from some other circuit court.

* * * * * * *

Third. Of causes, civil or criminal, which may properly come before them on appeal from any other court according to law.

§ 597. The judges of the several circuit courts shall have power, in chambers, within their respective jurisdictions, but subject to appeal to the circuit and supreme courts according to law, as follows:

* * * * * * *

Tenth. To enlarge on bail persons rightfully confined in all bailable cases.

* * . * * * * *

Twelfth. To issue warrants for the apprehension in any part of the Territory of any person accused under oath of a crime or misdemeanor committed within his jurisdiction, and to examine and commit such person to prison according to law, for trial.

§ 598. All defendants in criminal cases bound to appear at any circuit court which shall have failed to hold its term under the provisions of section 1160 of the Civil Laws, shall be bound to appear at the next term of said court.

§ 599. The judges of the several circuit courts of the Hawaiian Islands shall have power in chambers to issue warrants for the arrest, in any part of the Hawaiian Islands, of any person accused under oath of a crime or misdemeanor committed in any part of the Hawaiian Islands, and to examine and commit such accused person for trial before the circuit court of the circuit in which the warrant is issued, or before any other circuit court of the Hawaiian Islands.

§ 600. The several circuit courts of the Hawaiian Islands are hereby given jurisdiction of all criminal cases that may arise in any part of the Hawaiian Islands.

§ 601. The circuit judges shall severally have power to issue warrants for the apprehension within their respective circuits of any person accused under oath of a crime or misdemeanor, and to examine and commit such person to prison for trial, to fix bail, and generally to do and perform the duties of a committing magistrate.

[PART III.]

[§§ 602–605.]

NOTE TO CHAPTER 52.

PART I.

§ 584 is S. L. 1896, act 40, § 1. § 585 is S. L. 1892, ch. 57, § 11. § 586 is C. L., § 917. §§ 587–588 are S. L. 1860, C. L., p. 504; P. C., ch. 52, § 5–9. § 589 is S. L. 1896, act 41. §§ 590–593 are S. L. 1868, C. L., p. 505. § 594 is P. C., ch. 52, § 9.

PART II.

§§ 596–597 are extracts from S. L. 1892, ch. 57, §§ 36–37. § 598 is S. L. 1892, ch. 57, § 47. §§ 599–600 are P. G., act 76. § 601 is S. L. 1888, ch. 52.

PART III.

Territorial jurisdiction; see also P. L., § 620 et seq.

For matters of jurisdiction common to both criminal and civil procedure, see Civil Laws, chapters 79 and 80.

§ 590 does not apply to desertion of husband or wife; see P. L., § 855.

P. C., ch. 52, §§ 2–4, are omitted, as they appear elsewhere in P. L.

Cases in Hawaiian Reports: Queen v. Young Quai, 8 Haw., 283.

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CHAPTER 53.

CRIMINAL PROCEDURE.

PART I.—CRIMINAL PROCEDURE IN DISTRICT COURTS.

§ 606. Upon complaint made to any district magistrate of the commission of any offense within the jurisdiction of such magistrate to hear and determine, he shall examine the complainant on oath, shall reduce the substance of the complaint to writing and cause the same to be subscribed by the complainant, and if it shall appear that such offense has been committed, the said magistrate shall issue his warrant, reciting such complaint, and requiring the chief sheriff or other officer to whom it is directed (except as provided in the next succeeding section) forthwith to arrest the accused and bring him before such magistrate to be dealt with according to law; and in the same warrant may require the officer to summon such witnesses as shall be named therein to appear and give evidence at the trial. Such warrant may be in the following form:

To any constable of the district of ———, island of ———, H. I.:

You are hereby commanded, on the information of ———, verified by oath, forthwith to arrest and take the body of ———, accused of ———, if he can be found, and forthwith have his body before me at the district court room of the said district, at any time between the hours of —— a. m. and —— p. m. of the —— day of ———, A. D. ——— (to answer to the said accusations, or to show cause why he should not be committed for trial at the circuit court of the ——— judicial circuit). And you are also commanded, having arrested the said ———, to summon as witnesses of accusation ———, if they can be found, and to make due return of your proceedings upon this writ.

Given under my hand this —— day of ———, A. D. —.

———— ————,

District Magistrate of ———.

§ 607. Where, from such complaint, it shall appear to such magistrate that the offense charged therein is not of a serious nature, or not one for which a severe penalty should be imposed, and where the person complained against is so situated as to raise no presumption of his attempting to elude justice in the premises, such magistrate may, in his discretion (unless the complainant shall, in writing, request the immediate arrest of such alleged offender), issue his summons, wherein shall be recited the substance of such complaint, commanding such alleged offender to appear before him upon a time to be therein stated, not less than twenty-four hours from the time of service of summons, and then and there to answer such charge. Such summons shall contain a warning to the person summoned that failure to obey the same will render him liable to attachment for contempt.

§ 608. Such summons shall be served by handing the accused a copy thereof, and showing him the original, or, if he can not be found, by leaving such copy, during business hours, at his usual place of business or employment, or by leaving such copy at his place of residence, at any reasonable hour, in charge of some person of discretion. Should the alleged offender fail to appear at the prescribed time and place, after having been so summoned, he may be attached for contempt and dealt with accordingly.

§ 609. Such magistrate may, for any cause which shall appear to him to be sufficient, at any time after the issue of such summons, and by virtue of the complaint therein contained and recited, issue his warrant for the immediate arrest, upon such charge, of the person so summoned.

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COMMITMENT.

§ 610. In all cases of arrest for crimes or misdemeanors cognizable before a jury, the magistrate in whose jurisdiction or on whose warrant the accused was arrested shall, upon the appearance of the accused, proceed to consider whether there is probable cause to believe that a jury would, upon the evidence adduced, convict the accused of the offense with which he is charged, he shall reduce to writing the substance of the evidence adduced, with the names of the witnesses; and if, in his opinion, the testimony do not warrant commitment for trial, he shall release the prisoner, noting that fact upon his docket; but if, in his opinion, there is probable cause to believe that conviction would take place before a jury, he shall make out and deliver to a constable a mittimus, which may be in the following form:

To ———, or any other constable of the district of ———, island of ———, H. I.:

It appearing to my satisfaction that there is reason to believe that ———, who was arrested for ———, on the information of ——— (or otherwise, as the case may be), would be convicted upon indictment for the said offense:

You are commanded to deliver him, the said ———, to the sheriff of the island of ———, or his deputy, who is hereby authorized to commit him to the jail of the said island, for trial at the circuit court of the ——— judicial circuit, and have you then there this writ with full return of your proceedings thereon.

Given under my hand this —— day of ———, A. D. —.

———— ————,

District magistrate of ———.

In case of such commitment for trial, the committing magistrate shall forward without delay to the attorney-general a transcript of the evidence upon which the commitment is founded.

PROCEDURE AGAINST CORPORATIONS.

§ 611. Upon an information or presentment against a corporation, the magistrate must issue a summons signed by him, with his name of office, requiring the corporation to appear before him, at a specified time and place, to answer the charge.

§ 612. The summons must be served by delivering a copy thereof, and showing the original to the president or other head of the corporation, or to the secretary, treasurer, or managing agent therefor.

§ 613. At the appointed time in the summons the magistrate shall proceed to hear and try the case as in the case of a natural person.

§ 614. When a fine is imposed upon a corporation on conviction it may be collected by virtue of the order imposing it, by the chief sheriff or his deputy, or the sheriff or his deputy, out of the real and personal property of such corporation, in the same manner as upon an execution in a civil action.

PART II.—OF THE TIME FOR PRESENTING INDICTMENTS.

§ 615. In all cases of offenses against the laws of this Territory, triable only by a court of record, the accused shall be arraigned and prosecuted by an indictment by a legal prosecutor of the Territory, as soon after the commitment of the offense of which he is accused as may be expedient: Provided, always, That the presentation of an indictment against

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an accused shall not be deferred beyond the term of the court having jurisdiction of the alleged offense next succeeding the commitment of the accused for trial by a magistrate having competent jurisdiction therefor. And the trial shall then and there be proceeded with, unless the same shall be postponed by the court as hereinafter provided.

§ 616. The necessary bills of indictment shall be duly prepared by a legal prosecuting officer, and be duly presented to the presiding judge of the court before the arraignment of the accused; and such judge shall, after examination, certify upon each bill of indictment whether he finds the same a true bill or not.

§ 617. The failure to prosecute upon the indictment, if found at the ensuing term of the court, unless the venue be changed, or unless the cause be postponed by the court, or a failure to sustain the indictment upon the law involved, or a verdict of not guilty by the jury, or the successive disagreement of two juries impanneled to try the cause, shall operate as an acquittal of the accused, and the court shall order his discharge from custody.

§ 618. The attorney-general or the sheriffs on the several circuits shall furnish to the clerk of the court, three days before the first day of the term, a list of all criminal cases triable by jury at such term, that the calendar may be made up.

PART III.—DISCHARGE WITHOUT PROSECUTION.

§ 619. It shall be lawful for the attorney-general, in respect of any person or persons now or hereafter imprisoned under committal for trial for any offense, to grant at any time a certificate under his hand in the form following:

To the judge of the ——— circuit court of the Hawaiian Islands, or any of them:

This is to certify that I decline to present an indictment against A. B., detained in the custody of the chief sheriff in the gaol at ———, under the warrant of C. D., esq., district magistrate of ———, upon a charge of ———.

Given under my hand this —— day of ———, 18—.

E. F., *Attorney-General.*

Addressed to the judge of the ——— circuit court, or any one of them; who shall thereupon, by warrant, under their or his hand, in the form following—

To ———, esq., chief sheriff of the Territory of Hawaii:

Whereas A. B. is detained in your custody under the warrant of C. D., esq., district magistrate of ———, upon a charge of ———; and whereas it has been certified to us (or me) by E. F., the attorney-general of the Territory, that he declines to present any indictment against the said A. B. for the said offense, you are therefore hereby authorized and required forthwith to discharge the said A. B. from your custody upon the said warrant.

Given under our (or my) hand this —— day of ———, 18—.

G. H.,
I. K.,
Judge of the ——— Circuit Court.

order and direct the chief sheriff or gaoler in whose custody any such prisoner shall be immediately to discharge the prisoner therein men-

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tioned from imprisonment in respect of the offense mentioned in the said warrant.

PART IV.—VENUE, ETC.

§ 620. The offense of any person who shall be an accessory, either before or after the fact, to any felony, may be dealt with, enquired of, tried, determined, and punished by any court which shall have jurisdiction to try the principal felony or any felonies committed in any place in which the act by reason whereof such person shall have become such accessory shall have been committed.

§ 621. The offense of polygamy may be dealt with, enquired of, tried, determined, and punished in any jurisdiction within which the offender shall be apprehended or be in custody, in the same manner in all respects as if the offense had been actually committed within that jurisdiction.

§ 622. Whosoever shall receive any chattel, money, valuable security, or other property whatsoever, knowing the same to have been feloniously or unlawfully stolen, taken, obtained, converted, or disposed of, may (whether charged as an accessory after the fact of the felony, or with a substantiative felony, or with a misdemeanor only) be dealt with, indicted, tried, and punished in any jurisdiction in which he shall have or shall have had any such property in his possession, or in any jurisdiction in which the party guilty of the principal offense may by law be tried, in the same manner as such receiver may be dealt with, indicted against, tried, and punished in the jurisdiction where he actually received such property.

[§ 623.]

§ 624. Whosoever shall commit any offense of forging or altering any matter whatsoever, or of offering, passing, negotiating, assigning, or transferring any matter whatsoever, knowing the same to be forged or altered, may be dealt with, indicted, tried, and punished in any jurisdiction in which he shall be apprehended or be in custody in the same manner in all respects as if his offense had been actually committed in that jurisdiction. And every accessory, before or after the fact, to any such offense may be dealt with, indicted, tried, and punished in any jurisdiction in which he shall be apprehended or be in custody in the same manner in all respects as if his offense and the offense of his principal had been actually committed in such jurisdiction.

§ 625. Where any person shall tender, utter, or put off any false or counterfeit coin in one jurisdiction, and shall also tender, utter, or put off any other false or counterfeit coin in any other jurisdiction, either on the day of such first-mentioned tendering, uttering, or putting off or within the space of ten days next ensuing, or where two or more persons acting in concert in different jurisdictions shall commit any offense against chapter 31 of the Penal Laws, every such offender may be dealt with, indicted, tried, and punished, and the offense laid and charged to have been committed in any one of the said jurisdictions in the same manner in all respects as if the offense had been actually and wholly committed within one such jurisdiction.

§ 626. It shall not be necessary to state any venue in the body of any indictment, but the jurisdiction named in the margin thereof shall be taken to be the venue for all the facts stated in the body of such indictment: Provided, That in cases where local description is or hereafter shall be required, such local description shall be given in the body of the indictment.

§ 627. It shall be lawful for any court of record or judge thereof, at

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any stage of any criminal proceedings depending therein, whether the venue be by law local or not, to order that the venue be changed, and to direct that the trial be had in Honolulu or in some particular judicial circuit, in such cases and for such reasons as the justice of the case may require, and subject to such conditions as the court or judge may, in its or his discretion, impose.

PART V.—JOINDER OF DEFENDANTS IN CERTAIN CASES.

§ 628. Any number of accessories, at different times, to any felony, and any number of receivers, at different times, of the whole or any part or parts of any property which shall at one time have been stolen, taken, extorted, obtained, embezzled, or otherwise disposed of in such a manner as to amount to a felony, may be charged with substantive felonies in the same indictment and may be tried together, notwithstanding the principal felon shall not be included in the same indictment, or shall not be in custody, or amenable to justice.

PART VI.—WHAT INDICTMENTS SHALL SUFFICE AND AVAIL.

§ 629. No indictment for any offense shall be held insufficient for want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears upon the record," or "as appears by the record," or of the words "with force and arms," or of the words "against the peace," or for the insertion of the words "against the form of the statute," instead of the words "against the form of the statute," or vice versa, or for that any person mentioned in the indictment is designated by a name of office or other descriptive appellation, instead of his proper name, or for omitting to state the time at which the offense was committed in any case where time is not of the essence of the offense, or for stating the time imperfectly, or for stating the offense to have been committed on a day subsequent to the finding of the indictment or on an impossible day, or on a day that never happened, for want of a proper or perfect venue, or for want or a proper or formal conclusion, or for want of or imperfection in the addition of any defendant, or for want of the statement of the value or price of any matter or thing, or the amount of damage or injury in any case where the value or price or the amount of damage or injury is not of the essence of the offense.

§ 630. In any indictment for any felony or misdemeanor, wherein it shall be requisite to state the ownership of any property whatsoever, whether real or personal, which shall belong to or be in the possession of more than one person, whether such persons be partners in trade, joint tenants, partners, or tenants in common, it shall be sufficient to name one of such persons and to state such property to belong to the person so named and another or others, as the case may be; and whenever in any indictment for any felony or misdemeanor it shall be necessary to mention for any purpose whatsoever any partners, joint tenants, parceners, or tenants in common, it shall be sufficient to describe them in the manner aforesaid; and this provision shall be construed to extend to all joint-stock companies and trustees.

§ 631. All property, real and personal, whereof any body corporate shall by law have the management, control, or custody, shall, for the purpose of any indictment or proceeding against any other person for any offense committed on or in respect thereof, be deemed to be the property of such body corporate.

§ 632. In any indictment for murder or manslaughter or for being an accessory to any murder or manslaughter, it shall not be necessary to

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set forth the manner in which or the means by which the death of the deceased was caused, but it shall be sufficient in any indictment for murder to charge that the defendant did feloniously, willfully, and of his malice aforethought kill and murder the deceased; and it shall be sufficient in any indictment for manslaughter to charge that the defendant did feloniously kill and slay the deceased; and it shall be sufficient in any indictment against any accessory to any murder or manslaughter to charge the principal with the murder or manslaughter (as the case may be) in the manner hereinbefore specified, and then to charge the defendant as an accessory in the manner heretofore used and accustomed.

§ 633. In any indictment for forging, altering, uttering, or offering any instrument whatsoever, or for passing, negotiating, assigning, or transferring, obtaining or attempting to obtain any property by false pretences, or for any offense against chapter 23 of the penal laws, it shall be sufficient where it shall be necessary to allege an intent to defraud or injure to allege that the defendant did the act with intent to defraud or injure (as the case may be) without alleging an intent to defraud or injure any particular person, and in the case of obtaining or attempting to obtain property by false pretences without alleging any ownership of the money or other thing of value. And on the trial of any of the offenses in this section mentioned, it shall not be necessary to prove an intent on the part of the defendant to defraud or injure any particular person, but it shall be sufficient to prove that the defendant did the act charged with an intent to defraud or injure (as the case may be).

§ 634. In any indictment for any offense committed after a previous conviction or convictions for any felony or misdemeanor, it shall be sufficient after charging the subsequent offense to state that the offender was at a certain time and place, or at certain times and places, convicted of felony or misdemeanor, and to state the substance and effect only, omitting the formal part of the indictment and conviction for the previous offense without otherwise describing the previous offense or offenses.

§ 635. In every indictment whatsoever in which it shall be necessary to make any averment as to any money or valuable security, and in every indictment for embezzlement, fraudulent application, or fraudulent disposition where the offense shall relate to any valuable security, it shall be sufficient to describe such money or valuable security simply as money, without specifying any particular coin or valuable security. And such allegation, so far as regards the description of the property, shall in all cases be sustained by proof of any amount of coin, and in the cases of the offenses hereinbefore in this section specially named of any valuable security, although the particular species of coin of which said amount was composed or the particular nature of the valuable security shall not be proved, and in the cases of the offenses so specially named, and also in the case of obtaining money or other property by false pretenses, by proof that the offender embezzled, fraudulently applied, or disposed of any amount or obtained any piece of coin or any valuable security or any portion of the value thereof, respectively, although such piece of coin or valuable security (as the case may be) may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same or to any other person, and such part shall have been returned accordingly.

§ 636. It shall be lawful to insert several counts in the same indictment against the same person for any number of distinct acts of stealing, not exceeding three, which may have been committed by him against

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the same person within the space of six months from the first to the last of such acts, and to prosecute thereon for all or any of them.

§ 637. If any indictment for stealing or for any fraudulent purpose, destroying, canceling, obliterating or concealing the whole or part of any document of title to lands, it shall be sufficient to allege such document to be or to contain evidence of the title or of part of the title of the person or of some one of the persons having an interest, whether vested or contingent, legal or equitable, in the real estate to which the same relates, and to mention such real estate or some part thereof.

§ 638. In any indictment for any of the following offenses, it shall not be necessary to allege that the instrument, document, article, or thing in respect to which the offense is committed is the property of any person (that is to say), the offense of stealing any testamentary instrument; the offense of stealing any original document of any court; the offense of stealing or of ripping, cutting, severing, or breaking with intent to steal anything made of metal, fixed in any square or street, or in any place dedicated to public use or ornament.

§ 639. For preventing difficulties in the persecution of offenders in any case of embezzlement or fraudulent application or disposition by any person, it shall be lawful to charge in the indictment and proceed against the offender for any number of distinct acts of embezzlement, or of fraudulent application or disposition, not exceeding three, which may have been committed by him against the same person within the space of six months from the first to the last of such acts.

§ 640. In every case of larceny committed against the governor, or embezzlement, fraudulent application or disposition committed against the governor, of any chattel, money, or valuable security, it shall be lawful in the order of committal by the justice before whom the offender shall be charged, and in the indictment to be preferred against the offender, to lay the property of such chattel, money, or valuable security as aforesaid in the governor.

§ 641. In every case of stealing any chattel let to be used in or with any house or lodging, it shall be lawful to prefer an indictment in the common form as for larceny, and in every case of stealing any fixture so let as aforesaid to prefer an indictment in the same form as if the offender were not a tenant or lodger, and in either case to lay the property in the owner or person letting to hire.

§ 642. In any indictment containing a charge of feloniously stealing any property, it shall be lawful to add a count or several counts for feloniously receiving the same or any part or parts thereof, knowing the same to have been stolen, and in any indictment for feloniously receiving any property knowing it to have been stolen, it shall be lawful to add a count for feloniously stealing the same.

§ 643. In any indictment for forging, altering, offering, uttering, disposing of, or for stealing, embezzling, extorting, converting, disposing of, destroying or concealing, or for obtaining by false pretences any instrument, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known or by the purport thereof, without setting out any copy or fac-simile thereof, or otherwise describing the same or the value thereof.

§ 644. In all other cases whenever it shall be necessary to make any averment in any indictment as to any instrument, whether the same consists wholly or in part of writing, print, or figures, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or facsimile of the whole or any part thereof.

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§ 645. In any indictment for perjury or unlawfully, willfully, falsely, fraudulently, deceitfully, maliciously, or corruptly taking, making, signing, or subscribing any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, it shall be sufficient to set forth the substance of the offense charged upon the defendant, and by what court or before whom the oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing was taken, made, signed, or subscribed, without setting forth the bill, answer, affirmation, information, declaration, or any part of any proceeding, either in law or in equity, or other jurisdiction, and without setting forth the commission or authority of the court or the person before whom such offense was committed.

§ 646. In every indictment for subornation of perjury or of corrupt bargaining or contracting with any person to commit willful and corrupt perjury, or for inciting, causing, or procuring any person unlawfully, willfully, falsely, fraudulently, deceitfully, maliciously, corruptly to take, make, sign, or subscribe any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, it shall be sufficient wherever such perjury or other offense aforesaid shall have been actually committed to allege the offense of the person who actually committed such perjury or other offense in the manner hereinbefore mentioned, and then to allege that the defendant unlawfully, willfully, and corruptly did cause and procure the said person the said offense, in manner and form aforesaid, to do and commit, and wherever such perjury or other offense aforesaid shall not have been actually committed it shall be sufficient to set forth the substance of the offense charged upon the defendant, without setting forth or averring any of the matters or things hereinbefore rendered unnecessary to be set forth or averred in the case of willful and corrupt perjury.

Part VII.—Objections to Indictments, how Taken, Power of Amendment.

§ 647. Every objection to any indictment for any defect apparent on the face thereof shall be taken by demurrer or motion to quash such indictment before the accused has pleaded and not afterwards; and every court before which any such objection shall be taken for any such defect may, if it be thought necessary, cause the indictment to be forthwith amended in such particular by some officer of the court or other person, and thereupon the trial shall proceed as if no such defect had appeared, and no motion in arrest of judgment shall be allowed for any defect in any indictment which might have been taken advantage of by demurrer or motion to quash as aforesaid.

Part VIII.—Postponement of Trial, etc.

§ 648. No person prosecuted shall be entitled as of right to traverse or postpone the trial of any indictment preferred against him, or to have time to plead or demur to any such indictment allowed him: Provided, always, That if the court before which any person is indicted shall, upon the application of such person or otherwise, be of opinion that he ought to be allowed a further time to plead or demur or to prepare for his defense, or otherwise, such court may grant such further time to plead or demur, or may adjourn the receiving or taking of the plea or demurrer and the trial (or as the case may be) the trial of such person to the next or any subsequent term of the court, and upon such terms as to bail or otherwise as to the court shall seem meet.

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PART IX.—COURT FEES NOT PAYABLE BY DEFENDANTS.

§ 649. It shall not be lawful to take, demand, or receive any court fees for the issuing of any process for or on behalf of any person charged with or indicted for any felony, or as accessory thereto, or with or for any misdemeanor in any court of criminal jurisdiction; nor shall it be lawful to take, demand, or receive any fees from any such person for taking any recognizance of bail, or issuing any writ of habeas corpus, or recording any appearance or plea to any information, or for discharging any recognizance taken from any such person, or surety or sureties for them, but all costs may be ordered to be paid by the person charged and convicted, as part of the judgment.

PART X.—ARRAIGNMENT, PLEA, ETC.

§ 650. If any person being arraigned upon any indictment for any offense shall plead thereto a plea of "not guilty," he shall by such plea, without any further form, be deemed to have put himself upon the country for trial, and the court shall, in the usual manner, order a jury for the trial of such person accordingly.

§ 651. If any person being arraigned upon or charged with any offense shall stand mute of malice, or will not answer directly to the indictment, in every such case it shall be lawful for the court (if it shall so think fit) to order the proper officer to enter a plea of "not guilty" on behalf of such person, and the plea so entered shall have the same force and effect as if such person had actually pleaded the same.

§ 652. If any person indicted for any offense shall be insane, and shall, upon arraignment, be found so to be by a jury lawfully impaneled for that purpose, so that such person can not be tried upon such indictment, or if, upon the trial of any person so indicted, such person shall appear to the jury charged with such indictment to be insane, it shall be lawful for the court before whom any such person shall be brought to be arraigned or tried, as aforesaid, to direct such finding to be recorded, and thereupon to order such person to be kept in strict custody until the governor's pleasure shall be known; and if any person charged with any offense shall be brought before any court to be discharged for want of prosecution, and such person shall appear to be insane, it shall be lawful for such court to order a jury to be impaneled to try the sanity of such person; and if the jury so impaneled shall find such person to be insane, it shall be lawful for the court to order such person to be kept in strict custody, in such place and in such manner as to such court shall seem fit, until the governor's pleasure shall be known, and in all cases of insanity so found it shall be lawful for the governor to give such order for the safe custody of such person so found to be insane, during the governor's pleasure, in such place and in such manner as to him, by and with such advice as aforesaid, shall seem fit.

§ 653. No indictment shall be abated by reason of any dilatory plea of misnomer or want of addition, or of wrong addition of the party offering such plea, if the court shall be satisfied, by affidavit or otherwise, of the truth of such plea, but in such case the court shall forthwith cause the indictment to be amended according to the truth, and shall call upon such party to plead thereto, and shall proceed as if no such dilatory plea had been pleaded.

§ 654. In any plea of autrefois convict or autrefois acquit, it shall be sufficient for the defendant to state that he has been lawfully convicted or acquitted (as the case may be) of the said offense charged in the indictment.

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§ 655. The proceedings upon any indictment for committing any offense after a previous conviction or convictions shall be as follows (that is to say): The offender shall in the first instance be arraigned upon so much only of the indictment as charges the subsequent offense; and if he plead not guilty, or if the court order a plea of not guilty to be entered on his behalf, the jury shall be charged in the first instance to enquire concerning such subsequent offense only; and if they find him guilty, or if on arraignment he plead guilty, he shall then, and not before, be asked whether he had been previously convicted, as alleged in the indictment, and if he answer that he had been so previously convicted the court may proceed to sentence him accordingly; but if he deny that he had been so previously convicted, or stand mute of malice, or will not answer directly to such question, the jury so in the first instance charged as aforesaid, or if by reason of a plea of guilty in the first instance no such jury has been so charged, then a jury in like manner as in other cases shall be charged to enquire concerning such previous conviction or convictions; and in the case of a jury so charged in the first instance it shall not be necessary to swear the jury again, but the oath already taken by them shall for all purposes be deemed to extend to such last-mentioned enquiry. Provided, that if upon the trial of any person for any such subsequent offense such person shall give evidence of his good character, it shall be lawful for the prosecutor in answer thereto to give evidence of the conviction of such person for the previous offense or offenses before such verdict of guilty shall be returned; and the jury shall enquire concerning such previous conviction or convictions at the same time that they enquire concerning such subsequent offense.

§ 656. Any person indicted for a crime punishable with death shall, on demand upon the clerk by himself or his counsel, have a list of the jurors returned delivered to him, and shall also have process to summon such witnesses as are necessary for his defense.

§ 657. In all cases of felony in which the party accused is unable to employ counsel for his defense, the court may assign him counsel from among the licensed practitioners, who shall use every lawful exertion in his behalf without fee or reward, upon pain of contempt to the court.

§ 658. Every native Hawaiian arraigned upon indictment for any offense shall, on demand upon the attorney-general, be furnished with a copy of the indictment in the Hawaiian language.

§ 659. The prosecuting attorney shall open the case and first introduce his witnesses and proofs, and after the evidence for the defense has been presented, and the accused or his counsel has summed up and closed his case, the prosecuting attorney shall have the right to sum up the entire evidence and close the debate.

PART XI.—DEFENSE.

§ 660. All persons tried for any offense shall be admitted after the close of the case for the prosecution to make full answer and defense thereto by counsel or attorney.

PART XII.—VARIANCES AND AMENDMENT.

§ 661. If on the trial of any indictment there shall appear to be any variance between the statement in such indictment and the evidence offered in proof thereof, it shall and may be lawful for the court before which the trial shall be had, if such court shall consider such variance not material to the merits of the case, and that the defendant can not

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be prejudiced thereby in his defense on such merits, to order such indictment to be amended according to the proof, in such part of the indictment and in such manner as such court shall think fit, on such terms as to postponing the trial to be had before the same or another jury, as such court shall think reasonable; and after any such amendment the trial shall proceed, whenever the same shall be proceeded with, in the same manner in all respects and with the same consequences, both with respect to the liability of witnesses to be informed against for perjury and otherwise, as if no variance had occurred; and in all such cases where the trial shall be so postponed it shall be lawful for the court to discharge the jury sworn from giving any verdict, and to cause to be endorsed on the indictment the words "jury discharged from giving a verdict." Provided, that in all such cases where the trial shall be so postponed as aforesaid it shall be lawful for such court to enlarge the bail of the defendant and the surety or sureties (if any) accordingly. In such cases the witnesses who may have been summoned to give evidence shall be bound to attend to give evidence, respectively, and the defendant shall be bound to attend to be tried at the time and place to which said trial shall be postponed, without entering into any fresh bail bond, or being served with fresh process for that purpose, in such and the same manner as if the defendant originally bound and the witnesses summoned to appear and give evidence at the time and place to which such trial shall have been postponed. Provided also, that where any such trial shall be to be had before another jury, the Government and the defendant shall respectively be entitled to the same challenges as they were respectively entitled to before the first jury was impaneled.

PART XIII.--VERDICT.

§ 662. In cases where it shall be given in evidence upon the trial of any person charged with any offense that such person was insane at the time of the commission of such offense, and such person shall be acquitted, the jury shall be required to find specially whether such person was insane at the time of the commission of such offense, and to declare whether such person was acquitted by them on account of such insanity; and if they shall find that said person was insane at the time of the committing of such offense the court before whom such trial shall be had shall order such person to be kept in strict custody in such place and in such manner as to the court shall seem fit until the governor's pleasure shall be known; and it shall thereupon be lawful for the governor to give such order for the safe custody of such person so found to be insane during his pleasure in such place and in such manner as to him shall seem fit.

§ 663. If on the trial of any person charged with felony or misdemeanor it shall appear to the jury upon the evidence that the defendant did not complete the offense charged, but that he was guilty only of an attempt to commit the same, such person shall not by reason thereof be entitled to be acquitted, but the jury may return as their verdict that the defendant is not guilty of the felony or misdemeanor charged, but is guilty of an attempt to commit the same, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for attempting to commit the particular felony or misdemeanor charged in the indictment, and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an attempt to commit the felony or misdemeanor for which he was so tried.

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§ 664. If upon the trial of any person for any misdemeanor it shall appear that the facts given in evidence amount in law to a felony, such person shall not by reason thereof be entitled to be acquitted of such misdemeanor, and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for felony on the same facts, unless the court before which said trial may be had shall think fit, in its discretion, to discharge the jury from giving any verdict upon such trial and to direct such person to be proceeded against for felony, in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanor.

§ 665. Under an indictment for robbery, larceny, or any offense of more than one degree, the jury may, when the evidence will not warrant a verdict of guilty in the degree for which the prisoner is indicted, return a verdict for any lesser degree of the same offense.

§ 666. If on the trial of any person charged with the offense of rape or sodomy, or with the offense of ravishing, carnally abusing any girl under the age of ten years, or with having sexual or carnal intercourse with any female of this Territory under the age of fourteen years, the jury shall not be satisfied that he is not guilty thereof, but shall be satisfied that he is guilty of an assault with intent to commit the same, then the jury may return as their verdict that he is not guilty of the offense so charged, and may find him guilty of an assault with intent to commit the same.

§ 667. If upon the trial of any person upon any indictment for robbery it shall appear to the jury that the defendant did not commit the crime of robbery, but that he did commit an assault with intent to rob, the defendant shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is guilty of assault with intent to rob; and thereupon the defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for feloniously assaulting with intent to rob; and no person so tried as before lastly mentioned shall be liable to be afterwards prosecuted for an assault with intent to commit the robbery for which he was so tried.

§ 668. If upon the trial of any person indicted for embezzlement it shall be proved that he took the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of embezzlement, but is guilty of larceny, and in either degree, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such larceny in the degree found. And if upon the trial of any person informed against for larceny it shall be proved that he took the property in question in any such manner as to amount in law to embezzlement, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of larceny, but is guilty of embezzlement and the charge thereof, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such embezzlement in the degree found, or larceny as aforesaid, shall be liable to be afterwards prosecuted for larceny or embezzlement upon the same facts.

§ 669. If upon the trial of any person indicted for obtaining property by false pretences it shall be proved that he obtained the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, and no person tried

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for such misdemeanor shall be liable to be afterwards prosecuted for larceny upon the same facts.

§ 670. If upon the trial of any indictment for larceny it shall appear that the property alleged in such indictment to have been stolen at one time was taken at different times, the prosecutor shall not by reason thereof be required to elect upon which taking he will proceed, unless it shall appear that there were more than three takings, or that more than the space of six months elapsed between the first and the last of such takings, and in either of such last of such mentioned cases the prosecutor shall be required to elect to proceed for such number of takings, not exceeding three, as appear to have taken place within the period of six months from the first to the last of such takings.

§ 671. If upon the trial of two or more persons indicted for jointly receiving any property it shall be proved that one or more of such persons separately received any part or parts of such property, it shall be lawful for the jury to convict upon such indictment such of the said persons as shall be proved to have received any part or parts of such property.

§ 672. Where any indictment containing two or more counts, both for feloniously stealing and of receiving, shall have been preferred against any person, the prosecutor shall not be put to his election, but it shall be lawful for the jury who shall try the same to find a verdict of guilty either of stealing the property or of receiving the same, or any part or parts thereof, knowing the same to have been stolen; and if such indictment shall have been preferred against two or more persons it shall be lawful for the jury who shall try the same to find all or any of the said persons guilty either of stealing the property or of receiving the same, or any part or parts thereof, knowing the same to have been stolen, or to find one or more of the said persons guilty of stealing the property, and the other or others of them guilty of receiving the same, or any part or parts thereof, knowing the same to have been stolen.

§ 673. If upon the trial of any person for being concerned in a riot or unlawful assembly, as described in section 382 of chapter 38 of the Penal Laws, the jury shall not be satisfied that such person is guilty thereof, but shall be satisfied that he is guilty of any misdemeanor mentioned in the section next preceding section 382, then the jury may return as their verdict that he is not guilty of the offense charged, but is guilty of such misdemeanor, and he may be punished accordingly.

§ 674. Under an indictment for murder or manslaughter the jury may return a verdict of manslaughter in either degree, or for assault and battery, as the facts proved will warrant.

§ 675. Where upon the trial of any person charged with the offense of adultery sufficient proof of marriage shall not be adduced, such person shall not therefore be acquitted, but the court or jury before whom such party is charged may, if the facts proved will so warrant, find the accused guilty of fornication, and such accused person shall thereupon be punished accordingly.

Part XIII.—Evidence in Certain Cases.

§ 676. Where any person shall be proceeded against before any court of criminal jurisdiction for a subsequent offense in either case committed after any previous summary conviction or convictions, a copy of any such conviction, certified by the proper officer of the court to which such summary conviction shall have been returned or proved to be a true copy, shall be sufficient evidence to prove a conviction of the

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former offense, and the conviction shall be presumed to have been unappealed against until the contrary be shown.

§ 677. All persons under trial shall be entitled at the time of their trial to inspect, without fee or reward, all depositions which have been taken against them, and delivered in manner by law required to the proper officer of the court before which such trial shall be had, or copies of such depositions.

§ 678. Depositions taken in the preliminary or other investigation of any charge against any person may be read as evidence in the prosecution of the same or any other offense whatever, upon the like proof and in the same manner in all respects as they may, according to the law now in force, be read in the prosecution of the offense with which said person was charged when such depositions were taken.

§ 679. Where upon the trial of any person charged with any offense against chapter 31 of the Penal Laws it shall be necessary to prove that any coin produced in evidence against such person is false or counterfeit, by the evidence of any credible witness.

Part XIV.—Amendments not to Prejudice after Verdict.

§ 680. Every verdict and judgment which shall be given after the making of any amendment under this act shall be of the same force and effect in all respects as if the indictment had originally been in the same form in which it was after such amendment was made.

§ 681. If it shall become necessary at any time for any purpose whatsoever to draw up a formal record in any case where any amendment shall have been made under sections 615–687, such record shall be drawn up in the form in which the indictment was, after such amendment was made, without taking any notice of the fact of such amendment having been made.

Part XV.—Of Judgment and Execution.

§ 682. The verdict of the jury or the decision of the court, as the case may be, shall, subject to arrest of judgment, found the sentence to be passed in open court, by any of the judges, pursuant to the penalties of the law charged and found to have been violated, subject to the executive clemency or a motion in arrest of execution for cause.

§ 683. Any judge of a court of record may, for cause shown to his satisfaction, respite any convicted criminal for any length of time sufficient for the purposes of mercy, or not to work injury to innocent third parties.

§ 684. No person at the time insane, and no woman at the time quick with child, shall suffer capital punishment; neither shall any child suffer such punishment who has not evinced a knowledge of the distinction between right and wrong.

§ 685. In all cases where the law of this Territory awards the punishment of death there shall always intervene at least forty-eight hours between the conviction and the sentence and at least fourteen days between the sentence and the execution.

§ 686. The chief sheriff, or some one deputed by him, shall inflict the punishment of death by hanging the criminal by the neck until dead, when the body shall be disposed of pursuant to the direction of the court. No capital punishment shall be so inflicted until the warrant for that purpose shall be signed by the governor, nor shall such punishment be inflicted after the governor's pardon.

§ 687. In all criminal cases where the punishment is less than cap-

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ital the court before whom the conviction is had shall proceed, as soon thereafter as may be, to pass sentence according to law, which sentence shall be recorded by the clerk and certified to the chief sheriff or his deputy in the order for imprisonment or other punishment, as the case may be.

NOTE TO CHAPTER 53.

§§ 606–610 are S. L. 1892, ch. 57, §§ 18–22.
§§ 611–614 are P. C., act 24.
§§ 615–687 are S. L. 1876, ch. 40, C. L., p. 238 et seq.
P. C., ch. 53, entitled "Rewards to sheriffs, constables, and other prosecutors," was repealed by S. L. 1888, Ch. 5.
Cases in Hawaiian Reports: R. v. Kekoa, 5 Haw., 623; R. v. Robertson, 6 Haw., 727; R. v. Gibson, 6 Haw., 312; Rex. v. McGriffin, 7 Haw., 113; R. v. Chop Tin, 7 Haw., 384; Rex v. Mo Sow, 7 Haw., 736; Rex v. Ho Fon, 7 Haw., 759; R. v. Bush, 8 Haw., 275; Govt. v. Hering, 9 Haw., 187; Govt. v. Smith, 9 Haw., 262; Govt. v. Gertz, 9 Haw., 290; Govt. v. Mossman, 9 Haw., 361; Govt. v. Caecires, 9 Haw., 525; Govt. v. Gishi, 9 Haw., 643.

CHAPTER 54.

CARRYING DEADLY WEAPONS.

§ 688. Any person not authorized by law who shall carry, or be found armed with, any bowie knife, sword cane, pistol, air gun, slung shot, or other deadly weapon shall be liable to a fine of no more than thirty and no less than ten dollars, or, in default of payment of such fine, to imprisonment at hard labor for a term not exceeding two months and no less than fifteen days, upon conviction of such offense before any district magistrate, unless good cause be shown for having such dangerous weapons; and any such person may be immediately arrested without warrant by the chief sheriff or any sheriff, constable, or other officer or person and be lodged in prison until he can be taken before such magistrate.

§ 689. The following persons are hereby declared to be authorized to bear arms, viz: All persons holding official, military, or naval rank, either under this Government or that of any nation at peace with this Government, when worn for legitimate purposes.

NOTE TO CHAPTER 54.

§§ 688–689 are P. C., Ch. 54 unaltered.
Cases in Hawaiian Reports: R. v. Clark, 10 Haw., 585.

CHAPTER 55.

LICENSES.

PART I.—GENERAL PROVISIONS.

§ 690. The Treasurer may, upon the application of any person, issue to such applicant any license hereinafter enumerated upon the terms and conditions hereinafter set forth.

Except as otherwise herein provided, a license granted under sections 690–785, 789–795 shall only authorize the carrying on of the business licensed at the place indicated in the license, except in case of removal and upon the written consent of the treasurer endorsed thereon.

§ 691. Wherever in sections 690–785, 789–795 the word "treasurer" is used, it shall refer to and mean the treasurer of the Territory of Hawaii.

§ 692. From and after the date of the passage of sections 690–785,

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789–795 all licenses issued for carrying on the several businesses, or doing the acts therein enumerated, shall be issued by the treasurer in accordance with the terms and conditions and for the fees therein enumerated for the respective terms of one year from the several dates of issue. The carrying on of any business, or the doing of any act therein enumerated, except upon obtaining a license in conformity with the provisions of sections 690–785, 789–795, is hereby forbidden.

§ 693. Any person or persons who shall after the date of the passage of sections 690–785, 789–795 engage in or carry on any business, or do any act therein enumerated, the engaging in or doing which is therein required to be licensed, without first obtaining a license issued in conformity with the provisions of sections 690–785, 789–795, or who shall sell any goods, wares, merchandise, produce, or thing of value, contrary to the terms of sections 690–785, 789–795, or who shall violate or fail to observe any of the provisions of sections 690–785, 789–795, shall be guilty of a misdemeanor, and upon conviction shall, unless otherwise therein provided, be fined a sum not less than the annual fee, and not more than twice the annual fee therein prescribed for the carrying on of such business or the doing of such act.

Provided, however, That any person now carrying on business under an existing license may continue to do so until the expiration of such license, subject to the terms, conditions, and penalties prescribed in the several acts under which such licenses are severally issued, notwithstanding the repeal of such acts by sections 690–785, 789–795.

§ 694. Jurisdiction is hereby conferred upon all district magistrates to hear and decide all cases arising under sections 690–785, 789–795, in their respective jurisdictions.

§ 695. No license shall be issued under sections 690–785, 789–795 until the full fee required herein shall have been paid in advance for the term of one year.

§ 696. No license issued hereunder shall be transferable.

PART II.—ALCOHOL.

§ 697. Wherever in sections 690–785, 789–795, the words "methylated spirits" are used, they shall mean ethylic alcohol to which has been added at least one-ninth its bulk of pyroxylic spirits.

Wherever in sections 690–785, 789–795, the word "alcohol" is used, it shall mean the ordinary alcohol of commerce known as ethylic alcohol.

§ 698. The treasurer is hereby authorized to grant to any holder of a license to import and sell poisonous drugs, a license to sell methylated spirits and alcohol. The annual fee for such license shall be the sum of fifty dollars.

§ 699. Before granting said license, a good and sufficient bond to the treasurer in the sum of one thousand dollars, secured in not less than double the amount of the penalty, shall be required. The condition of the bond shall be, that the holder of said license shall observe and comply with the provisions of sections 702 and 703.

The treasurer is authorized to require any other conditions or security to insure the due observance of sections 690–785, 789–795.

[§§ 700–701.]

§ 702. The holders of licenses for the sale of methylated spirits and alcohol under sections 690–785, 789–795 are hereby prohibited from selling alcohol to any person but a duly licensed physician; and no greater quantity than one gallon at any one sale shall be sold to any such physician.

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§ 703. It shall be incumbent upon any holder of a license under sections 690–785, 789–795 to keep a book in which he shall write or cause to be written down the quantity of alcohol sold at each sale, the date of such sale, the name of the physician to whom the alcohol was sold; also the quantities consumed by the licensee and the purposes, itemized in detail, for which it was used. Such book and the quantity of alcohol in possession of the licensee shall always be accessible for inspection by any clerk or officer of the government whom the treasurer may appoint to perform such inspection.

It shall also be incumbent upon any holder of a license under sections 690–785, 789–795 during the first week of every month to file with the treasurer a sworn statement showing the amount of alcohol on hand at the beginning of the preceding month, the quantity sold during the month, to whom, the quantity consumed by the licensee, and also the amount remaining on hand at the end of such month.

§ 704. Any person who shall be convicted of selling or furnishing methylated spirits or alcohol without a license to sell the same shall be liable to a fine of not less than one hundred nor more than two hundred and fifty dollars.

Any person holding a license under sections 690–785, 789–795 who shall violate or fail to observe any of the provisions herein contained shall for the first offense be fined not to exceed one hundred dollars, and for the second offense be fined not to exceed two hundred and fifty dollars and the license shall be forfeited, and the penalty named in the said bond shall at once become due.

Part III.—Stock and Share Business.

§ 705. The annual fee for carrying on a stock and share business be one hundred dollars.

§ 706. The term "stock and share business" for the purposes of sections 690–785, 789–795 shall mean the buying or selling of corporation stocks or shares for a commission or other compensation or reward.

Part IV.—Awa.

§ 707. The treasurer is authorized to sell to the highest bidder at public auction, between the first and seventh day of December in each and every year, licenses to sell awa for each taxation district in the Territory of Hawaii.

Each such license shall be for the term of one year from the first day of January next ensuing.

§ 708. The licenses for the Island of Oahu shall be sold under the direction of the treasurer at the front entrance of the executive building or at such other place as he may direct, and on the other islands they shall be sold by the sheriffs or their deputies in the respective districts for which they are to be granted.

§ 709. The time and place of sale shall be duly advertised in both the English and Hawaiian languages in some newspaper published on the island where the license is to be sold, if any is published there; and on the islands other than Oahu, posted in at least three prominent places in each of the districts where the sales are to be held.

§ 710. The upset price for such license at public auction shall be as follows:

For the district of Honolulu, one thousand dollars.

For the districts of Hilo and Wailuku, five hundred dollars each; and

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for the district of Lahaina, two hundred and fifty dollars; and one hundred dollars for each other district.

§ 711. A cash deposit of twenty-five per cent of the amount of the bid shall be required upon the fall of the hammer, said deposit to be forfeited to the government if the full amount of the bid is not paid within five days from the day of sale.

§ 712. In case of such forfeiture, the license shall be again advertised, and after reasonable notice, again sold at public auction, at the upset price provided for in the district for which it is to be granted.

§ 713. No cultivator of awa shall sell awa to any person not holding a license to sell awa, except for exportation.

§ 713A. Any person who shall sell awa without a license shall be fined not less than fifty nor more than one hundred dollars.

PART V.—AUCTION.

§ 714. The annual fee for a license to sell goods, wares, and merchandise, or other property at auction shall be six hundred dollars for the district of Honolulu, and fifteen dollars for each other taxation district.

[§ 715.]

§ 716. Every auctioneer shall keep and preserve a record book in which shall be entered—

1. A detail list and description of the property received for sale;
2. The name of the person from whom, or on account of whom, the same is received.
3. The date upon which the same is received.
4. The date upon which the same is sold.
5. The price for which each article is sold.
6. The name of the person or persons to whom each article is sold; which record shall, during the regular business hours, be open to the inspection of any person desiring to see the same. Every such entry shall be made immediately after each transaction required to be recorded.

§ 717. Every person, upon receiving an auction license, shall give a bond to the treasurer in the penal sum of three thousand dollars, if the license be for the district of Honolulu, and in the penal sum of five hundred dollars for other districts, with good and sufficient surety or sureties to be approved by the treasurer, conditioned—

1. That he will faithfully and truly keep the records by this act required to be kept.
2. That he will faithfully, promptly, and truly account to all persons for whom he may sell property, and promptly pay to them all sums received by him for sales of the same, after deducting therefrom his commissions and expenses.
3. That he will not sell goods, wares, merchandise, or other property except at public auction.
4. That he will otherwise in all things conform to the laws relating to auctioneers.

§ 718. The treasurer, or by his written consent, any person whose property is sold by any auctioneer, concerning which property a record shall not have been kept as required by sections 690–785, 789–795, or concerning which such auctioneer shall otherwise have failed to fulfill the terms of his said bond, may prosecute such auctioneer under his bond, and recover thereon any actual loss caused to him or sum due to him by such auctioneer, and also the sum of five dollars ($5) to the use of the treasury for each item by sections 690–785, 789–795, required to

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be entered in such record which is omitted therefrom, or which is entered therein incorrectly; and the license of such auctioneer may, in the discretion of any judge or court, be cancelled.

§ 719. In case suit on such bond shall be brought by any person other than the treasurer, such suit shall be in the name and at the sole cost, charge, and expense of such plaintiff.

§ 720. Every auctioneer may charge a commission of not more than five per cent upon all sales and collections made by him; and the actual amounts paid by him for advertising the sale of any property sold, and any other expenses that may be especially agreed upon between him and the owner of the property to be sold, and may deduct such commission and expenses from the proceeds of any such sale.

§ 721. Every auctioneer may sue in his own name any person purchasing property sold by him at auction, whether to enforce specific performance of the sale or to collect the purchase price thereof.

§ 722. Nothing in sections 690–785, 789–795, or in any law relating to auction licenses, shall be construed to extend to or affect sales at auction made by the chief sheriff or any sheriff, deputy sheriff, constable, pound master, tax collector, or other public officer, or by any executor, administrator, guardian, assignee, or other person who may be required or authorized by law to sell any property at auction, and who shall under such authority so sell such property.

§ 723. Any auctioneer may appoint any agent or assistant to act for him in the conduct of his auction business, for all of the acts of whom he shall be responsible in the same manner as though they were done personally by himself.

Part VI.—Banking.

§ 724. The annual fee for a banking license shall be seven hundred and fifty dollars.

§ 725. The term "banking," for the purposes of sections 690–785, 789–795, shall mean the engaging in buying or selling drafts or bills of exchange on banks or persons in other countries, or the receiving of deposits and paying of checks thereon.

Any person holding a banking license may also, under such license, loan his own money, or collect for, or receive, or take the money of another and loan or advance the same to another, or others, charging a higher rate of interest than is allowed to the depositor; or may loan the moneys of another, or negotiate a loan to or from another, for a commission or other compensation.

Part VII.—Billiards and Bowling Alleys.

§ 726. The annual fee for a license to keep a billiard table or a bowling alley, to be used for hire or pay, shall be twenty five dollars for each such table or alley.

§ 727. The treasurer shall have power to prescribe such regulations for the keeping of billiard tables and bowling alleys as he may deem necessary and proper for the public good; and the violation of any such regulations shall, in the discretion of the court, work a forfeiture of the license.

§ 728. Nothing herein contained shall be construed as applying to any billiard table or bowling alley kept by any person for private use.

Part VIII.—Boats and Boatmen.

§ 729. The annual fee for a license to ply a boat for hire in the harbor of Honolulu, Lahaina, Hilo, or Kahului shall be eight dollars for every

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boat with four or more oars, and four dollars for every boat with less than four oars.

§ 730. The owner of any boat licensed for the harbor of Honolulu shall be entitled, if hired on time, to charge one dollar for each passenger for the first hour and fifty cents for each succeeding hour, if the boat have four or more oars, and only half of such fare if the boat has less than four oars.

If hired by distance, twenty cents for each passenger to or from any ship or point within the inner buoy; fifty cents to or from any ship or point between the inner and outer buoys, and one dollar to and from any ship or point in the anchorage outside of the buoys, if the boat have four oars; and half of said fares if the boat have less than four oars.

Provided, always, that if the boat shall be detained by any passenger alongside of any ship or at any point over fifteen minutes, the owner shall be entitled to charge fifty cents additional for every half hour or portion thereof of such detention.

§ 731. Every person hiring any such boat shall be entitled to carry with him, free of charge, one hundred pounds of baggage or goods, and no more; and for all extra baggage or goods he shall pay according to agreement with the person plying the boat.

§ 732. The owner of any licensed boat shall, upon the written order of the treasurer, furnish such boat with the proper number of oarsmen for the public service, at the rate of four dollars per day for any boat with four oars and two dollars per day for any boat with less than four oars.

§ 733. The owner of every licensed boat shall have and keep the number of her license painted conspicuously upon both of her bows.

§ 734. The annual fee for a license to engage in the business of boatman in any boat to be used for hire in the harbor of Honolulu shall be one dollar.

§ 735. Every licensed boatman shall provide himself with a badge, upon which must be plainly marked a number, which badge must at all times, when the boatman is employed, be conspicuously displayed. Such badges shall be furnished by the treasurer at cost.

§ 736. The treasurer may from time to time make rules to be observed by the licensed boats and boatmen, which rules shall be published in some newspaper, and shall then have the force and effect of laws.

§ 737. Any person who shall act as a boatman in any boat plying for hire in the harbor of Honolulu without a license, or who, being licensed, shall violate or fail to observe any of the requirements of this chapter, or of the rules prescribed by the treasurer under this chapter;

Or any owner or person in charge of a licensed boat who shall refuse to take a passenger at the rates herein prescribed;

Or who shall charge any person more than said rates,

Or who shall knowingly convey any woman on board of any vessel for the purposes of prostitution; or any person flying from the territory to escape justice or the payment of his debts;

Or who shall assist with his boat any sailor deserting from any vessel;

Or who shall communicate with any vessel placed under quarantine, shall be fined not less than five nor more than fifty dollars; and in the discretion of the court the license of such boatman to ply such boat may be cancelled.

Any person plying a boat for hire in the harbor of Honolula, Lahaina, Hilo, or Kahului without being licensed shall be fined not less than five nor more than fifty dollars.

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PART IX.—BUTCHER—BEEF.

§ 738. The annual fee for a license to slaughter and sell beef shall be one hundred dollars for the district of Honolulu and twenty dollars for all other districts.

§ 739. The annual fee for a license to sell beef in each taxation district shall be ten dollars.

§ 740. Upon granting such a license the treasurer shall exact from the licensee a bond in the penal sum of five hundred dollars, with good and sufficient surety, to be approved by the treasurer, conditioned that such licensee will keep a full and accurate record concerning every animal which he may purchase, kill, or sell; and that he will at all times during regular business hours keep such record open for the inspection of all who may desire to examine the same.

Such record shall contain—

1. The sex of the animal.
2. The brand or brands on the animal, stating the position on the animal of such brand.
3. The principal color or colors of the animal.
4. The name of the person or persons who sold the animal to him.
5. The date when the animal was sold to him.
6. The date when the animal was delivered to him.
7. The date when the animal was killed.

§ 741. The treasurer, or, with his written consent, any person owning any animal purchased, sold, or killed by any licensed butcher, concerning which a record as prescribed by sections 690–785, 789–795 has not been kept, may prosecute such licensed butcher under his bond and recover thereon, to the benefit of the treasury, the sum of not less than five dollars nor more than fifty dollars for each item by sections 690–785, 789–795 required to be entered in such record which is omitted therefrom, or which is entered therein incorrectly, and the license of such butcher may, in the discretion of any judge or court, be cancelled.

PART X.—BUTCHER—PORK.

§ 742. The annual fee for a license to sell pork in each taxation district shall be ten dollars.

§ 743. The annual fee for a license to sell pork in the district of Honolulu shall be twenty dollars.

§ 744. The provisions of the last two preceding sections shall not be held to apply to the sale of pork which is "kaluaed" or cooked in the Hawaiian style.

[PART XI.]

[§ 745.]

PART XII.—FIREARMS.

§ 746. The annual fee for a license to hunt with firearms upon the island of Oahu shall be five dollars.

The treasurer may, in his discretion, refuse to issue a license to hunt with firearms, under sections 690–785, 789–795, to any person who has been convicted of violating any of the provisions of any law for the protection of game.

§ 747. Any person who shall hunt in said island with firearms without a license under sections 690–785, 789–795 allowing him so to do, or who, being licensed to hunt, shall hunt with any unlicensed firearm, shall be fined not less than five nor more than fifty dollars.

[§§ 748–755.]

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PART XIII.—LIVERY STABLE.

§ 756. The annual fee for a license to carry on the business of a livery stable shall be fifty dollars for the district of Honolulu, and twenty-five dollars for the districts of Wailuku and Hilo.

PART XIV.—LODGING OR TENEMENT HOUSE; HOTELS, BOARDING HOUSES, AND RESTAURANTS.

§ 757. The annual fee for a license to keep a lodging or tenement house shall be two dollars.

§ 758. The annual fee for a license to keep a hotel, boarding house, or restaurant shall be fifty dollars.

§ 759. No license shall be issued for a lodging or tenement house, hotel, boarding house, or restaurant, until the applicant shall secure from the board of health, and present to the treasurer a certificate setting forth that an agent of the board has examined the house or houses proposed to be used for such purposes, with a description thereof sufficient to identify and locate the same; and that the same are in good sanitary condition and suitable to be used for such purpose; and, if the application is for a license for a lodging or tenement house, hotel, or boarding house, stating the number of persons who, by law, can be lodged therein; and further, that no license shall be issued for any lodging or tenement house, hotel, boarding house, or restaurant to be established or maintained in any location which in the opinion of the governor is unsuited for the purpose, or which the governor believes to be objectionable.

§ 760. A lodging or tenement house, hotel, boarding house, or restaurant license shall be issued upon the following express conditions, which shall be incorporated in the license, viz:

1. That the licensee shall not keep a noisy or disorderly house.
2. That no prostitute shall be allowed to reside therein or resort thereto.
3. That no intoxicating liquor shall be furnished or sold therein except as authorized by law.
4. That no more persons shall at any time be lodged therein than are permitted by the license.
5. That the buildings and premises licensed shall be kept in good sanitary condition, in accordance with law and with the orders of the agent of the board of health.
6. That the police and agents of the board of health shall at all times have access thereto for purposes of inspection.
7. That no gaming shall be allowed therein.

§ 761. Any person who shall keep a lodging or tenement house, hotel, boarding house, or restaurant without a license under sections 690–785, 789–795, or who, holding a license, shall violate or fail to observe any of the requirements or conditions of sections 690–785, 789–795, or of his license, shall be fined not less than ten nor more than one hundred dollars, and the court, in its discretion, may cancel his license.

§ 762. Nothing in sections 690–785, 789–795 contained shall be construed to prevent a private family from incidentally taking not more than seven boarders or lodgers without taking out a license hereunder.

§ 763. The treasurer may also, in his discretion, permit hotels at which both meals and lodgings are furnished, at points other than in Honolulu, where they are a public convenience, to be carried on without a license under sections 690–785, 789–795.

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PART XV.—MERCHANDISE.

§ 764. The annual fee for a license to sell imported goods, wares, and merchandise, to be known as a "merchandise license," shall be as follows:

If the annual gross sales for the previous twelve months, including tobacco, cigars, and cigarettes, were or are estimated to be for the succeeding twelve months less than twenty thousand dollars, the fee shall be fifty dollars. If twenty thousand dollars or over, the fee shall be three-eighths (⅜) of one per cent of the annual gross sales.

§ 765. Any person desirous of obtaining a license to sell imported goods, wares, or merchandise shall apply in writing to the treasurer, setting forth under oath the following facts, viz:

1. His name and nationality, if the application is in the name of a corporation or firm, or store name; such name as well as that of the applicant in person shall appear in the heading and only an officer of a corporation and a member or other person authorized or empowered by letter to sign a firm name shall be allowed to sign or swear to an application.

2. The location where the licensed business is to be carried on.

3. The nature of the business and the kind of articles which he intends to sell.

4. Whether he has previously held a merchandise license, and, if so, the number and date of the last such license held by him, the location of his place of business, and the amount of the gross sales made by or for him during the preceding twelve months.

If he has not previously held a merchandise license, he shall state the amount of sales which he expects to make during the succeeding twelve months.

§ 766. No person holding a merchandise license under sections 690–785, 789–795, shall permit any foreign commercial traveler or transient or other agent to work under his name or license.

§ 767. No person holding a merchandise license shall be permitted, by virtue thereof, to sell or furnish opium or any preparation thereof, nor any poisonous drugs, nor alcohol, spirituous liquors, or other intoxicating drink.

§ 768. Any person who shall sell imported goods, wares, or merchandise without a license under sections 690–785, 789–795, or who shall make any false statement in his application for a license; or who, holding such license, shall sell any article not permitted by his license to be sold, or who shall otherwise violate or fail to observe any of the terms, conditions, or requirements of sections 690–785, 789–795, or of his license, shall be fined not exceeding one thousand dollars, or imprisoned at hard labor not exceeding six months, and in the discretion of the court his license may be canceled.

PART XVI.—MILK.

§ 769. The annual fee for a license to sell milk shall be two dollars and fifty cents ($2.50).

§ 770. Any person who shall sell, or offer for sale, any milk which has been adulterated by the addition of water or other substance, or from which the cream has been skimmed or separated, unless the same is specifically and openly stated to be skimmed milk, shall be fined not more than fifty dollars.

§ 771. Any police officer or agent of the board of health shall have power to inspect and test any milk sold or offered for sale, and to confiscate any adulterated milk which he may find.

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PART XVII.—NOTARIES PUBLIC, AGENTS TO TAKE ACKNOWLEDGMENTS, AGENTS TO ACKNOWLEDGE LABOR CONTRACTS.

§ 772. The annual fee for a license to act as agent to take acknowledgments to labor contracts in the District of Honolulu shall be fifty dollars.

The annual fee for a license to act as notary public or as agent to take acknowledgments shall be ten dollars for Honolulu and five dollars for the First judicial circuit outside of Honolulu and five dollars for all the other judicial circuits.

PART XVIII.—PEDDLING CAKE.

§ 773. The annual fee for a license to peddle cakes shall be twenty-five dollars.

§ 774. A license to peddle cake shall be issued only upon the written recommendation of the chief sheriff or of the sheriff of the island for which the license is requested; and shall authorize the holder to peddle only upon the island which is named in the license.

PART XIX.—POISONOUS DRUGS.

§ 775. The annual fee for a license to import and sell poisonous drugs shall be fifty dollars.

§ 776. The board of health may, upon the conditions to be named in such authorization, authorize any duly qualified physician or surgeon, or any person holding a license to import and sell poisonous drugs, to import and sell, for medicinal purposes only, opium and preparations thereof, upon the payment of the duties imposed by law.

Provided, however, That no person shall sell or furnish opium or any preparation thereof, except upon the written prescription of a duly licensed physician signed by him.

§ 777. Any person who shall import, sell, or furnish any poisonous drugs without a license so to do; or who shall violate any of the terms of sections 690–785, 789–795, shall be fined not less than fifty nor more than five hundred dollars, or be imprisoned at hard labor not exceeding six months in the discretion of the court.

§ 778. Nothing herein contained shall be construed to prevent the government or the board of health from importing and using or distributing any drugs or medicine.

PART XX.—PUBLIC SHOW.

§ 779. The chief sheriff, or the sheriffs upon their respective islands, may license for any term not exceeding one year, any theater, circus, public show, lecture, or exhibition, not of an immoral character, to which an admission fee is charged, or during which a fee is collected, upon such conditions as he or they may deem reasonable.

§ 780. The fee for each performance under any such license shall be five dollars. But no fee shall be charged if the treasurer or sheriff is satisfied that the entire proceeds of the performance or exhibition are to be devoted to any school, religious or charitable institution, or for the promotion of art, and not for profit.

§ 781. The police authorities shall have the right to be present at and regulate any performance licensed under sections 690–785, 789–795 in such manner as may be reasonably necessary for the preservation of order, decorum, and the public peace or morals.

§ 782. Any person who shall set up, promote, exhibit, or take part in any theater, circus, public show, lecture, or exhibition without a license

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authorizing the same first having been obtained in accordance with the terms of sections 690–785, 789–795, or who, having obtained a license, shall violate any of the conditions thereof, or who shall misrepresent to the treasurer the character of the performance or exhibition to be given, with a view of obtaining a remission of the license fee, or for any other purpose; or who, having obtained a license, shall give any obscene, indecent, or immoral performance or exhibition, or any performance or exhibition other than the one or ones authorized in such license, shall be fined not less than ten dollars nor more than one hundred dollars, or imprisonment at hard labor for not more than six months, in the discretion of the court, and if he has a license, his license shall be cancelled.

PART XXI.—SALMON.

§ 783. The annual fee for a license to sell salmon shall be ten dollars.

§ 784. Nothing herein contained shall be construed to prohibit the sale of salmon by any person holding a license under sections 690–785, 789–795 to sell imported merchandise.

PART XXII.—TOBACCO, CIGARS, AND CIGARETTES.

§ 785. The annual fee for a license to sell tobacco, cigars, and cigarettes shall be ten dollars. The payment of this fee shall exempt the holder of a license to keep a hotel, boarding house, or restaurant from the payment of a fee for a merchandise license in case the licensee is not a dealer in merchandise other than tobacco, cigars, and cigarettes; but shall not be construed to exempt the holder from the payment of a fee for a merchandise license, as provided by section 764, in case the licensee is a dealer in merchandise other than tobacco, cigars, and cigarettes.

§ 786. From and after the passage of this act it shall be unlawful to sell or furnish tobacco in any shape or form whatsoever to minors under the age of fifteen years.

§ 787. Any person violating the provisions of section 786 shall be punished by fine not exceeding one hundred dollars, and if such offense be committed by any dealer licensed to sell tobacco, such dealer, after the second offense, shall forfeit his license.

§ 788. Jurisdiction is hereby conferred upon district magistrates to hear and determine all cases arising under sections 786 and 787.

PART XXIII.—VEHICLES AND DRIVERS.

§ 789. The annual fee for a license to carry freight or baggage for hire or compensation in the districts of Honolulu, Wailuku, Lahaina, and Hilo, on any dray, cart, wagon, or other vehicle other than a handcart, shall be two and a half dollars for each vehicle so used.

The annual fee for a license to drive any licensed vehicle shall be one dollar; and such license shall permit the licensee to drive any vehicle licensed under this section.

§ 790. The annual fee for a license to carry passengers for hire in any vehicle shall be one dollar for each person for which such vehicle has a carrying capacity.

§ 791. The chief sheriff, or a sheriff, or deputy chief sheriff, or deputy sheriff, or an inspector appointed by the chief sheriff for such purpose, shall, before any license is issued for any passenger vehicle, inspect the vehicle for which a license is requested, and the harness and the animals to be used therewith, and if he find the same to be in good serviceable condition he shall deliver to the applicant therefor a cer-

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tificate setting forth such fact and the capacity of the vehicle. Such officer shall also examine any applicant for a driver's license, and if he find such applicant to be a competent driver he shall give him a certificate to that effect.

No license shall be issued to any driver or for any passenger vehicle until the receipt by the treasurer of such certificate.

§ 792. The owner of a licensed vehicle shall continuously exhibit in a conspicuous place on every such vehicle the number of the license issued for such vehicle.

Every licensed driver shall wear, while employed, a badge, which shall be supplied by the treasurer at cost, showing his number.

§ 793. No licensed vehicle shall convey at any one time a greater number of passengers than the capacity enumerated in its license.

§ 794. The treasurer may, from time to time, make rules regulating licensed drivers and licensed vehicles, and the fares to be charged by them, which rules shall be published in some newspaper or newspapers, and shall then have the force and effect of law.

§ 795. Any person who shall, in any district where a vehicle license is required, convey any passenger or freight for hire in any unlicensed vehicle;

Or who shall allow an unlicensed vehicle owned by him to be used for such purpose;

Or who, having a license, shall use any vehicle, harness, or animal which is not in good and serviceable condition;

Or who shall drive a licensed vehicle without a driver's license;

Or who shall violate or fail to observe any of the requirements of sections 690–785, 789–795, or of the rules made by the treasurer under sections 690–785, 789–795, shall be fined not more than twenty-five dollars for each such violation, and the license of any such licensed vehicle or driver may, in the discretion of the court, be cancelled.

[PART XXIV.]

[§§ 796–809.]

PART XXVI.—MARRIAGE LICENSES.

§ 810. It shall be the duty of the treasurer, upon the nomination of the department of public instruction, to appoint a suitable number of agents in the several districts of the Territory, whose duty it shall be to grant marriage licenses, agreeably with the laws; which agents shall be entitled to the fee of one dollar for each license, to be paid by the party applying therefor. Any such agent who shall charge more than that amount for any such license, or who shall receive a bribe for the same, shall be liable to a fine not exceeding fifty dollars, upon conviction before any district magistrate.

[PART XXVII.]

[§§ 811, 812.]

[PART XXVIII.]

[§§ 813–815.]

PART XXIX.—KEROSENE.

§ 816. The treasurer is hereby authorized, in his discretion, to grant a license to any person, company, or partnership to import kerosene

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oil of not less than one hundred degrees (Fahrenheit) test, and to use the same for fuel and mechanical purposes in some lawful business or industry to be designated in the license; provided, however, that no such license shall be granted for the use of such oil for such purpose within the limits of the city of Honolulu.

The fee for such license shall be the sum of ten dollars, and the license shall be for one year from the date of issue.

§ 817. Before granting such license a good and sufficient bond to the said treasurer in the sum of one thousand dollars shall be required.

The conditions of the bond shall be that the holder of the license shall not use the oil imported under the provisions of sections 816–821 within the limits of the city of Honolulu, nor for any other purpose than that named in the license; and that the holder of the license will not give, sell, or furnish any of such oil to any person, company, or corporation not holding a similar license for any purpose whatsoever.

§ 818. The city of Honolulu, for the purposes of sections 816–821, shall be deemed to be included within a circuit of three miles from the junction of King and Nuuanu streets.

[§ 819.]

§ 820. The provisions of sections 1517–1526, relating to the storing and testing of kerosene oil and the exportation thereof when not equal to the required test, shall apply to oil of the description mentioned in section 816 so far as the same are consistent herewith.

§ 821. Every person who shall use kerosene oil of less than one hundred and fifteen degrees (Fahrenheit) test, but not less than one hundred degrees (Fahrenheit) test, without a license, or in contravention with the terms of his license, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment at hard labor for a term not exceeding six months.

Part XXX.—Pawnbrokers.

§ 822. Every person who shall advance for interest or for or in expectation of profit, gain, or reward any sum of money upon security of any goods or chattels whatsoever, taken by such person by way of pawn or pledge, shall be deemed and taken to be a pawnbroker within the meaning of sections 822–826; provided, that nothing herein shall be held or construed to apply to loans or advances made on any goods or chattels, bonds, bills, or other security taken by merchants, bankers, commission agents or auctioneers in the ordinary and *bona fide* course of mercantile or banking transactions.

§ 823. The treasurer is hereby authorized to grant licenses for the respective periods of one year to carry on the business of pawnbroking, upon payment of the sum of one hundred and fifty dollars.

§ 824. Every such license shall be issued upon these express conditions set forth in such license:

That the person receiving such license shall not charge or receive interest at the rate of more than four per centum per month for any loan under twenty dollars, nor more than two per centum per month for any sum above twenty dollars, and under one hundred dollars, nor more than one per centum for any sum over one hundred dollars, nor exact any other gain, profit, or reward by charging commissions, discount, storage, or other charge, or by compounding or by any other device increasing such interest.

That he shall not sell any article pledged to him and unredeemed

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within six months after the last day fixed by contract for the redemption, nor make any such sale without publishing at least twice in a newspaper published in Honolulu, in English and Hawaiian, at least ten days before such sale a notice containing a list of the articles to be sold, and specifying the time and place of sale.

That he will disclose to the pledgor or his agent the name of the purchaser and the price received by him for any article so pledged and sold.

That he will keep a register in the English or Hawaiian language and enter in such register the date, duration, amount, rate of interest on any loan made by him, an accurate description of the property pledged, the name and residence of the pledgor and will deliver to the pledgor a copy of such entries and will also enter in such register an account in writing of all sales made by him.

That he will produce for inspection his register and exhibit all articles received by him in pledge and his account of sales to any officer authorized under a search warrant to search for property or holding an order of a magistrate directing such officer to inspect such register or such articles pledged or such account of sales.

That he will notify the chief sheriff of the Territory or his deputy of any offer made by any person to pledge any articles which said licensee has reasonable cause to suspect of having been stolen.

§ 825. Any person who carries on the business of pawnbroker, except by authority of the license provided for in sections 822–826, shall be liable upon conviction before any district magistrate to a fine not exceeding three hundred dollars.

§ 826. Every licensed pawnbroker who shall fail to comply with any of the conditions mentioned in section 824 shall upon conviction before any district magistrate be liable to a fine not exceeding three hundred dollars and shall forfeit his license.

PART XXXI.—MEDICINE AND SURGERY.

§ 827. No person shall practice medicine or surgery as a profession in the Hawaiian Islands, either gratuitously or for pay, or shall offer to so practice, or shall advertise or announce himself, either publicly or privately, as prepared or qualified to so practice, without having first obtained from the treasurer under seal of his department a license in form and manner substantially as hereinafter set forth. Such license shall only be granted upon the written recommendation of the board of health.

All licenses to practice medicine or surgery heretofore granted by the minister of the interior upon the recommendation of the board of health, and in force at the time of the passage of sections 827–835, shall remain in force, subject to the provisions of sections 827–835.

§ 828. For the purposes of sections 827–835 the practice of medicine shall be held to include the use of drugs and medicines, water, electricity, hypnotism, or any means or method, or any agent, either tangible or intangible, for the treatment of disease in the human subject. Provided, however, that nothing herein contained shall be held to forbid any person from the practice of any method or the application of any remedial agent or measure under the direction or with the approval of a licensed physician.

§ 829. No person shall be recommended by the board of health for a license to practice medicine or surgery except upon the written report of a board of medical examiners, to be appointed and constituted as

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hereinafter provided, setting forth that the applicant named therein has been duly examined and found to be possessed of the necessary qualifications.

§ 830. For the purpose of carrying out the provisions of sections 827–835, the governor is hereby authorized and directed to appoint a board of medical examiners, whose duty it shall be to examine all applicants for license to practice medicine or surgery, and to report the result of such examination to the board of health.

Such board of medical examiners shall consist of three persons, all of whom shall be licensed physicians or surgeons under the laws of this Territory. The first appointments shall be for one, two, and three years, respectively, and all subsequent appointments, unless to fill out unexpired terms, shall be for three years, subject, however, to removal for cause by the governor. The members of the board of medical examiners shall serve without pay.

§ 831. No applicant for license to practice medicine or surgery shall be examined until he shall have paid to the treasurer a fee of ten dollars.

§ 832. Any person who shall practice medicine or surgery in the Hawaiian Islands, or who shall offer or attempt to so practice, or shall advertise or announce himself, either publicly or privately, as prepared or qualified to so practice, contrary to the provisions of section 827, shall be guilty of a misdemeanor, and shall be liable on conviction to a fine of not more than two hundred and fifty dollars, in the discretion of the court.

§ 833. Licenses to practice medicine and surgery, whether granted under the provisions of sections 827–835, or of any act heretofore existing, may be revoked by the treasurer at any time for professional misconduct, gross carelessness, or manifest incapacity; such misconduct, carelessness, or incapacity, having been proven to the satisfaction of the board of health, and by that body reported in writing to said treasurer. In case any license is revoked for any of the causes named in this section, the holder thereof shall be immediately notified of such revocation in writing by the treasurer.

§ 834. In case of an alleged misconduct, carelessness, or incapacity on the part of any holder of a license to practice medicine or surgery, the person so charged shall be notified in writing of the charge or charges that have been made, and of the time and place when and where evidence in support of the same will be heard, and shall have the opportunity to present evidence and be heard in his own defense.

§ 835. The form of license to practice medicine and surgery shall be substantially as follows:

TERRITORY OF HAWAII, TREASURY DEPARTMENT—LICENSE TO PRACTICE MEDICINE AND SURGERY.

———, a native of ———, aged ——— years, having been duly examined by the board of medical examiners, and having been recommended by the board of health as possessed of the necessary qualifications, is hereby licensed to practice medicine and surgery in the Territory of Hawaii.

This license is granted and accepted on the express condition that it may be revoked at any time for professional misconduct, gross carelessness, or manifest incapacity, such misconduct, carelessnes, or incapacity having been proven to the satisfaction of the board of health, and by that body reported to the treasurer.

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Given under my hand and the seal of the treasury department this —— day of ——, A. D. ——.

(Signed) ——— ———,
Treasurer.

(Signed) ——— ———,
Chief Clerk.

§ 836. Any person who shall attempt the cure of another by practice of sorcery, witchcraft, anaana, hoopiopio, hoounauna, hoomanamana, or other superstitious or deceitful methods, shall, upon conviction thereof before a district magistrate, be fined in a sum not less than one hundred dollars nor more than two hundred dollars, or be imprisoned at hard labor not to exceed six months.

PART XXXII.—DENTISTS.

§ 837. From and after the passage of sections 837-844 it shall be unlawful for any person or persons to practice dentistry in the Territory of Hawaii except upon a certificate issued from a board of dental examiners.

§ 838. The board of dental examiners shall consist of three members, namely, one physician and two dentists, who shall be appointed by the governor, and whose first term of office shall be for one, two, and three years, and thereafter shall hold office for three years. The said board to act without compensation.

§ 839. It shall be the duty of the board of dental examiners to issue certificates of qualification to any person or persons at present engaged in the practice of dentistry who, within sixty days from the passage of sections 837-844, shall file an application before said board under oath and sworn to by two or more reputable citizens, setting forth the fact that he has been engaged in the active practice of dentistry in the Territory of Hawaii for two or more years previous to the passage of sections 837-844.

§ 840. It shall be the duty of said board to issue certificates of qualification to any person or persons at present practicing in the Territory of Hawaii who shall file an application in writing within sixty days from the passage of sections 837-844 and pass a creditable examination before the board upon dental medicine and surgery.

§ 841. It shall be the duty of the said board to issue certificates of qualification to any person or persons at present practicing in the Territory of Hawaii who shall present within sixty days from the passage of sections 837-844 a diploma from a reputable dental college.

§ 842. From and after sixty days subsequent to the passage of sections 837-844 the said board shall issue a certificate of qualification to any person who shall present a diploma from a reputable dental college or who shall pass a creditable examination before the board.

§ 843. Any person or persons receiving certificates from said board shall present said certificates to the treasurer, who shall record the same in a book kept for such purpose.

§ 844. Any person or persons who shall violate the provisions of sections 837-844 shall upon conviction thereof be liable to a penalty of not less than one hundred nor more than five hundred dollars. Provided, that nothing in sections 837-844 shall be construed so as to prevent the extraction of teeth under circumstances of necessity.

PART XXXIII.—MISCELLANEOUS REGULATIONS.

§ 845. From and after the passage of sections 845-847 all persons holding a license from the treasury for any class or kind of business

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shall keep said license exposed to view in some prominent place convenient for inspection on the premises for which the same is granted. Any failure to comply with the requirements of this section shall, upon complaint to the nearest district magistrate, subject the party or firm under whose name the license is held to a fine of not less than $10 or more than $50.

§ 846. If any person or persons holding a license from the treasury department shall close out, transfer, or assign the business for which said license is held during the term for which the same was issued they shall within thirty days from the date of such closing out, transfer, or assignment notify the treasurer of such fact in writing and return said license to the treasury office for cancellation, under a penalty of $100, upon complaint to any district magistrate.

§ 847. All licenses issued by the treasury department shall be signed by the treasurer or his chief clerk and impressed with the seal of the department.

§ 848. All licenses which now are, or which hereafter may be, by law granted by the treasurer shall be signed by either the treasurer or the chief clerk of the treasury department.

§ 849. The treasurer shall refuse to issue licenses for any business whatsoever except in fire-proof buildings in that part of Honolulu east of Alakea street and north of Beretania street, if in his opinion or discretion the nature of such business or the location thereof might endanger the safety of the neighborhood from fire.

NOTE TO CHAPTER 55.

§§ 690–785, 789–795, are S. L. 1896, act 64, §§ 1–102; but §§ 698, 701, 712, 739, 743, 759, 762, 785, 789, are as amended by S. L. 1898, act 38.
§ 713A is S. L. 1898, act 38, § 3, and §§ 769 and 772 are as amended by S. L. 1898, act 57.
§§ 786–788 are S. L. 1890, ch. 62.
§ 810 is P. C., ch. 55, §14.
§§ 816–821 are S. L. 1896, act 14.
§§ 822–826 are S. L. 1886, ch. 28.
§§ 827–835 are S. L. 1896, act 60.
§ 836 is S. L. 1887, ch. 35.
§§ 837–844 are S. L. 1892, ch. 72.
§§ 845–847 are S. L. 1890, ch. 28.
§ 848 is S. L. 1888, ch. 2.
§ 849 is S. L. 1886, ch. 57.
Cases in Hawaiian Reports: Bradley v. Thurston, 7 Haw., 528; Rex v. Wall, 7 Haw., 760; Re Licenses, 7 Haw., 774; Rex v. Chung Young, 8 Haw., 157; Williams v. Pantheon, 8 Haw., 168; R. v. Gasper, 8 Haw., 234; Bankruptcy Daniels, 8 Haw., 747; R. v. Clark, 10 Haw., 585.

CHAPTER 56.

DESERTION OF HUSBAND OR WIFE.

§ 850. Upon the sworn complaint before any judge of a court of record, or district magistrate, by any party, that his wife has, without cause, forsaken his bed and board, and refused and still refuses to cohabit with him; or that her husband has, without cause, deserted her, and neglects to maintain, provide for, and support her, as in section 1890 of the civil laws provided, such judge may issue a warrant to apprehend and bring before him the party so complained of.

§ 851. Said judge shall examine into, hear, and determine the complaint, and shall secure, if practicable, a reconciliation between the parties; if they become reconciled to each other, no penalty shall be imposed.

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§ 852. But if the offending party refuse to return and perform the duties of the marriage contract, he or she may be punished by imprisonment at hard labor for a term not exceeding one month, in the discretion of the judge.

§ 853. If the party complained against shall again leave after the first complaint, if either the husband or wife, he or she shall be sentenced to imprisonment at hard labor for a period not exceeding one year.

§ 854. In any suit brought for desertion, it shall be permitted the defendant to prove in self-justification the ill conduct of the complainant, and on establishing such defense to the satisfaction of the court the suit may be dismissed, the judge awarding the costs as in civil cases, and execution may be issued therefor.

§ 855. The provisions of section 590 of the penal laws shall not be applied to the warrant provided for by section 850 of this chapter.

NOTE TO CHAPTER 56.

§ 850 is P. C., ch. 56, § 1.

§§ 851–855 are S. L. 1890, ch. 36, reenacting P. C., ch. 56, §§ 2–4; S. L. 1878, ch. 14; C. L., p. 612, and S. L. 1876, ch. 36; C. L., p. 585.

Section 1286 of the Civil Code, referred to in § 850, was repealed S. L. 1888, ch. 11.

Cases in Hawaiian Reports: Re Kelkoa, 5 Haw., 280; Silva v. Silva, 8 Haw., 496.

CHAPTER 57.

TO MITIGATE THE EVILS AND DISEASES ARISING FROM PROSTITUTION.

WHEREAS the evils and diseases arising from prostitution are widespread and apparent, carrying death to thousands of the Hawaiian race and preventing the increase of the population; and it being impossible to suppress and crush out prostitution, but that its evils and diseases may be combated, circumscribed, and diminished:

§ 856. Every common prostitute in and around the city of Honolulu shall register with the sheriff of the island of Oahu her name, place of residence, place of birth, and age.

§ 857. All females known to be common prostitutes who shall fail to cause themselves to be registered according to section 856 shall, on complaint and conviction before the police magistrate of Honolulu, be imprisoned for not less than thirty nor more than sixty days, and be subject to the rules of such place of confinement.

§ 858. Such females, registered as above, shall attend and be examined by a physician, to be appointed by the board of health, at least once in every two weeks, at some convenient place, of which public notice shall be given, and if found diseased, such females shall be treated free of charge for such disease, subject to such regulations and restriction as may be prescribed by the said physician.

§ 859. Any female registered as above who shall not attend for examination as above provided, or who shall not obey the prescriptions of the physician, upon information thereof to the sheriff such female may be summarily imprisoned for not less than thirty nor more than sixty days: Provided, That nothing herein contained shall imply that any female free from disease, so registered, may not at any time forsake prostitution, have her name erased from the registry, and no longer remain under the provisions of this section.

§ 860. The physician appointed as above shall be paid such reason-

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able compensation as may be determined upon by the board of health, out of the funds appropriated from time to time by the legislature to be expended under this chapter.

§ 861. The sheriff of Oahu shall be charged with the execution of this law, and shall be further empowered to establish such police regulations for the better carrying into effect the object contemplated by this law as he may deem requisite, subject to the approval of the board of health; and it shall be his duty to render a quarterly report of all matters connected with the execution of this law to the board of health, and biennially through the said board to the legislature.

§ 862. It shall be lawful for the district magistrates of Honolulu, Lahaina, and Hilo, respectively, to cause to be arrested and brought before them any female that may be complained of by the sheriff or prefect of police as being a prostitute, and if it shall appear to the satisfaction of the magistrate that such female is a prostitute, and that her father, mother, or other guardian reside in any other district than that in which such magistrate has jurisdiction, or that such female has left her native district and come to reside within the district where such magistrate has jurisdiction, for the purpose of prostitution, then such magistrate may order such female to return to her parents or guardian, if she have any, or to the district from whence she came, within forty-eight hours from the time of such order; and if such female be found within his district after the expiration of such period of forty-eight hours, the magistrate may punish her by imprisonment at hard labor, or solitary confinement, for a period not exceeding thirty days upon the first complaint, and upon any subsequent complaint, for a period not exceeding sixty days. It shall be the duty of all judicial and police officers, school inspectors, and school teachers to inform the district magistrates of the seaports aforesaid of any females belonging to their respective districts whom they may suspect of having resorted to said seaports for the purposes of prostitution, that they may be dealt with as hereinbefore provided.

§ 863. From and after the passage of this section, the execution of the law entitled "An act to mitigate the evils and diseases arising from prostitution" shall devolve upon the board of health.

The said board shall have full power and authority to enforce said law and to make such rules and regulations, from time to time, as they shall deem best for the carrying out of the provisions of the law.

NOTE TO CHAPTER 57.

§§ 856–862 are P. C., ch. 57, §§ 1–7.
§ 863 is S L. 1892,, ch. 51.

CHAPTER 58.

DISEASE OF SHEEP.

§ 864. The governor may appoint a sheep inspector in each of the gubernatorial districts of the Territory, upon the application of a majority of the sheep owners in such district. The term of service of said inspector shall be two years, unless sooner removed for cause by said governor. He shall receive no compensation for the duties of such office from the government.

§ 865. It shall be the duty of the sheep inspector, upon the written complaint of any person that any sheep or flock of sheep is infected with scab, or other infectious or contagious disease, to examine such sheep or flock in the presence of the owner or keeper thereof, and deter-

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mine whether or not such complaint is true. If it be found that any such disease exists in said sheep, or flock of sheep, the inspector shall thereupon, in writing, notify the owner of the same, or his agent, of the fact. For such services he shall be entitled to receive the sum of five dollars for each day actually engaged in such duty and his traveling expenses, which shall be paid by the person complaining. If such complainant in the written application shall not agree to become liable for such payment, the inspector may disregard the application.

§ 866. It shall not be lawful to drive any sheep infected with scab or other infectious or contagious disease along any public road without the consent first obtained in writing of the owners of sheep whose runs adjoin such roads, or on or through lands in use as sheep runs, without such consent so obtained.

§ 867. The owner of any sheep driven contrary to the provisions of section 866 shall be liable, on conviction before any district magistrate, to a fine of not less than two hundred dollars, and higher, in the discretion of such magistrate; and for diseased sheep straying upon the sheep run of another, may be fined not less than twenty-five dollars for each sheep.

NOTE TO CHAPTER 58.

§§ 864–867 are S. L. 1876, ch. 25, C. L., p. 577, repealing P. C., ch. 58.

CHAPTER 59.

THE PUBLIC HEALTH.

PART I.—BOARD OF HEALTH.

§ 868. There shall be a board of health for the Hawaiiain Islands, consisting of seven members, three of whom shall be laymen, three physicians, and the attorney-general *ex officio*. The members of the said board shall be appointed by the governor, by and with the advice and consent of the senate, and shall be commissioned for two years; provided, that the governor may remove any member of said board, and the governor may fill all vacancies in said board. All of the members of said board shall serve without pay. The board shall elect its presiding officer, who shall be styled the president of the board of health; and in case of his absence, any member of the board may be chosen to preside over the meetings of the board. The board shall appoint its executive officer, secretary, agents, and physicians, who shall receive such compensation for their services as shall be approved by a majority of members of the board at a regular convened business meeting thereof, said compensation to be paid out of any funds available to the board by appropriation.

The board shall have general charge, oversight, and care of the public health, and shall make, through its president, an annual report to the governor, showing in detail all its expenditures and transactions and such other information regarding the public health as the board shall deem of special interest.

§ 869. Said board of health may appoint suitable agents, in such localities as it may deem necessary, to carry into effect all regulations for the public health; and it shall hold such agents accountable for all moneys received and disbursed by them on account of the public health, and also for the manner in which they may discharge their several duties.

§ 870. The board of health may make such regulations respecting

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nuisances, sources of filth, and causes of sickness, within the respective districts of the Territory, and on board of any vessels, as it shall judge necessary for the public health and safety.

§ 871. Said board shall also make such regulations as it may judge necessary for the public health and safety, respecting any articles which are capable of containing or conveying any infection or contagion, or of creating any sickness, when such articles shall be brought into or conveyed from any district, or into or from any vessel.

§ 872. Said board shall also make all regulations which it may judge necessary for the interment of the dead, and respecting cemeteries and burying grounds.

§ 873. Notice shall be given by the board of health of all regulations made by it by publishing the same in some newspaper of the district, or where there is no such newspaper, by causing them to be posted in three public places of the town or district; and such notice of said regulations shall be deemed legal notice to all persons.

§ 874. Every person who shall violate any regulation of the board of health, after the same shall have been published as provided in the last preceding section, shall be fined not exceeding one hundred dollars.

§ 875. For the purpose of carrying into effect the law relating to the public health, the board of health shall be, and hereby is, invested with full power to apportion and disburse all sums of money that shall be appropriated by the legislature for the preservation of the public health, and in case of pestilence or contagious disease, all such sums shall from time to time be appropriated by the president for the protection of the lives and health of the people. The said board shall observe the strictest economy in the expenditure of all public moneys placed under its control, and shall deposit with the governor for safe keeping, all the original vouchers for expenditures made under its discretion, and all books, records, and papers relating to its business and transactions. All drafts upon the public treasury for expenditures under the board of health shall, in order to their validity, be signed by the governor.

§ 876. The board of health shall keep a regular record of its proceedings, and shall annually make a full and detailed report of its transactions, including an account of its receipts and expenditures, to the governor, who shall lay the same before the legislature. Said board shall also, during the prevalence of any severe pestilence or epidemic, publish a weekly report of the public health.

Part II.—Abatement of Nuisances.

§ 877. The board of health and its agents shall examine into all nuisances, sources of filth, and causes of sickness, on shore or in any vessel, and shall cause the same to be destroyed, removed, or prevented, as the case may require.

§ 878. Whenever any such nuisance, source of filth, or cause of sickness shall be found on private property, the board of health or any health agent shall order the owner or occupant thereof, at his own expense, to remove the same within forty-eight hours; and if the owner or occupant shall neglect so to do, he shall be fined in a sum not exceeding one hundred dollars.

§ 879. If the owner or occupant shall not comply with such order of the board of health, the board or any of its agents may cause such nuisance, source of filth, or cause of sickness to be removed, and all expenses incurred thereby shall be paid by the said owner or occupant, or by such other person as shall have caused or permitted the same.

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§ 880. When any person shall be convicted for a common nuisance that may be injurious to the public health, the court may, in its discretion, order it to be removed or destroyed at the expense of the defendant, under the direction of the board of health, or otherwise, as it may deem proper.

§ 881. The several circuit courts shall have jurisdiction concurrently with the district courts of all cases of common nuisances.

§ 882. Whenever any person shall be convicted in any circuit court of maintaining a common nuisance, the court shall order that said nuisance be abated. Such order shall not operate to suspend or vacate the sentence imposed, but shall be a wholly cumulative remedy. In case the order shall not have been made at the time of imposing the sentence, it may be made at any regular term of the same court holden within two years thereafter, upon motion by the attorney-general and reasonable notice to the defendant. Upon the hearing of such motion the judgment previously rendered shall be conclusive evidence of the maintenance of the nuisance.

§ 883. All orders for the abatement of a nuisance shall direct, under a penalty, that the same be abated within a time to be limited in such order, and that, if the same be not abated within such time, the proper executive officer of the law do forthwith abate the same at the cost of the defendant, who shall also be liable to the full amount of the penalty specified in such order, for which, as well as for all costs and expenses arising in such case, execution shall duly issue.

§ 884. Whenever any member of the board of health, or its agent, shall think it necessary for the preservation of the lives or health of the inhabitants to enter any land, building, or vessel for the purpose of examining into and destroying, removing, or preventing any nuisance, source of filth, or cause of sickness, and shall be refused such entry, such member or agent may make complaint to any district magistrate, who may thereupon issue a warrant directed to any sheriff, deputy sheriff, or constable, commanding him to take sufficient aid, and, being accompanied by such member of the board of health or agent, between the hours of sunrise and sunset, to repair to the place where such nuisance, source of filth, or cause of sickness complained of may be, and the same to destroy, remove, or prevent, under the directions of such member or agent.

§ 885. No slaughterhouse shall be maintained in any part of this Territory in any place where the board of health shall now or hereafter forbid the maintenance of the same.

[PART III.]

[§§ 886–906.]

PART IV.—CAUSES OF SICKNESS AND CONTAGION.

§ 907. It shall be the duty of the chief sheriff, and all officers of police, and physicians, to report to the board of health, or its nearest authorized agent, the existence of any nuisance injurious to the public health, of which either of them may be cognizant, as soon as possible after it shall come to their knowledge.

§ 908. It shall be the duty of every physician having a patient infected with the smallpox, or any other disease dangerous to the public health, to give immediate notice thereof to the board of health, or its nearest agent, in writing, and in like manner to report to said board, or its agent, every case of death which takes place in his practice, from

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any such disease; and every physician who shall refuse or neglect to give such notice, or make such report, shall be fined for each offense a sum not less than ten nor more than one hundred dollars.

§ 909. It shall be the duty of every householder, keeper of a boarding or lodging house, or master of a vessel to report immediately to the board of health, or its nearest agent, any person in or about their house or vessel whom they shall have reason to believe to be sick or to have died of the smallpox or any other disease dangerous to the public health, under a penalty of not less than five nor more than one hundred dollars for each offense.

§ 910. When any person shall be infected with the smallpox or other sickness dangerous to the public health, the board of health or its agent may, for the safety of the inhabitants, remove such sick or infected person to a separate house and provide him with nurses and other necessaries, which shall be at the charge of the person himself, his parents, or master, if able; otherwise at the charge of the government.

§ 911. If the infected person can not be removed without danger to his life, the board of health or its agent may make provision for him, as directed in the last preceding section, in the house in which he may be, and in such case they may cause the persons in the neighborhood to be removed, and may take such other measures as they shall judge necessary for the public health and safety.

§ 912. The governor may establish a hospital on each of the islands of Oahu, Maui, Kawaii, and Kauai, to be under the immediate supervision and control of the board of health, which may make rules and regulations for the government of such hospitals, which rules and regulations shall be published for general information.

§ 913. For the purpose of removing nuisances and causes of sickness the board of health may require the chief sheriff and sheriffs to cause the prisoners under their charge to aid in such work.

§ 914. In case any moneys are expended by the board of health for any sick person brought into this Territory in any vessel from abroad, it shall be the duty of said board or its agent to demand the same from the master of the vessel in which such sick person was brought. The master of such vessel shall be liable for the amount of the moneys thus expended.

PART V.—VACCINATION.

§ 915. The governor shall appoint, upon the recommendation of the board of health, a suitable person to be vaccinating officer in each of the districts of the Territory, who shall receive such salary as may from time to time be appropriated by the legislature, and shall be removable from office at the pleasure of said governor.

§ 916. Each vaccinating officer shall appoint at least three convenient places in each school district throughout his division for the performance of vaccination, and from time to time give public notice of the time when he will attend at such places to vaccinate all persons not already successfully vaccinated who may then and there appear, and also of the time when he will attend at such place to inspect the progress of such vaccination in the persons so vaccinated.

§ 917. The father or mother of every child shall, within six months after the birth of such child, or, in event of the death, illness, or absence of the father or mother then the guardian, nurse, or person having charge of such child, shall, within six months after its birth, or at the earliest opportunity after, take such child to the vaccinating officer for the purpose of being vaccinated.

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§ 918. Upon the eighth day following the day on which any child has been vaccinated, the father, mother, guardian, or other person having charge of said child shall again take such child to the vaccinating officer, that he may ascertain by inspection the result of such operation.

§ 919. If the vaccination is found to be successful the officer shall deliver to the father, mother, or other person having charge of the child, free of charge, a certificate that the child has been successfully vaccinated, and shall note the same in a book to be kept by such officer for that purpose.

§ 920. On the presentation of any child to be vaccinated, should the officer deem the child to be in an unfit state to be vaccinated, he may postpone the operation at his discretion, and give due notice to the parents or person having charge of such child to reproduce the same for vaccination at a future time.

§ 921. The vaccinating officers shall visit the several stations appointed by them at least once in every six months, and oftener if required so to do by the governor or board of health.

§ 922. Every parent, guardian, or other person having the charge of any child, who shall refuse or neglect to comply with the provisions of the law respecting vaccination, shall be subject to a fine of five dollars, one-half of which shall be paid to the informer.

§ 923. The several vaccinating officers shall keep a faithful record of their transactions, and make an annual report of the same to the governor.

§ 924. The vaccination of children required by law may be performed by the officers appointed for such purpose by the board of health, or by duly licensed physicians, at the option of the parents or guardians of such children.

Every parent or guardian having the charge of any child, who shall fail to cause such child to be properly and successfully vaccinated within the age prescribed by statute, shall be liable to a fine of five dollars.

§ 925. No child shall be admitted to any public or private school without producing a certificate of vaccination or showing marks of successful vaccination.

The principal or teacher of any public or private school who shall admit to such school any child without such certificate or marks shall be liable to a fine of five dollars.

§ 926. No physician or other person shall vaccinate any person in this Territory with matter other than bovine virus. Every person violating the provisions of this section shall, upon conviction thereof, be fined not to exceed fifty dollars for each offense.

PART VI.—LAUNDRIES AND WASHHOUSES.

WHEREAS the increasing number of laundries and washhouses within the limits of the city of Honolulu tends to the propagation and dissemination of disease;

AND WHEREAS it is advisable that all laundries and washhouses should be placed under the control and inspection of the board of health: Therefore,

§ 927. It shall be lawful for, and the superintendent of public works is hereby authorized and empowered to cause to be built and erected in the district of Kona, island of Oahu, a sufficient number of laundries and washhouses, and to let the same to persons applying therefor at such rents and upon such terms as the said superintendent of public

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works shall deem advisable; and in like manner to designate and use for such purposes buildings already erected.

§ 928. Such laundries and washhouses, when erected, shall be under the supervision and control of the board of health.

§ 929. From and after the date of publication of sections 927–931 every person who shall carry on the business of laundry keeping or washing for hire within the limits of the city of Honolulu, except in such buildings as shall be provided for such purpose in accordance with the provisions of section 927, shall be liable to a fine not to exceed fifty dollars for each and every day or part of a day during which he shall so carry on such business, and in default of payment of such fine shall be imprisoned at hard labor until such fine is paid.

§ 930. The city of Honolulu, for the purposes of sections 927–931, shall be deemed to be included within a circuit of three miles from the junction of Nuuanu and King streets.

§ 931. Nothing in sections 927–931 contained shall be deemed or construed to prevent persons washing in or on the banks of the streams, in places hitherto used for that purpose.

PART VII.—MANUFACTURE OF POI.

WHEREAS the manufacture of poi within the limits of the city of Honolulu has been found to constitute a nuisance on account of the large amount of waste and refuse matter resulting therefrom: Therefore:

§ 932. It shall not be lawful, save as hereinafter permitted, to manufacture poi for sale in the district of Honolulu, island of Oahu, within the following named limits, viz: On the makai side by the water front, on the Ewa side by Waipilopilo Hill and a straight line drawn mauka and makai at that point; on the mauka side by Wyllie street and a line drawn in extension thereof; on the Waikiki side by Punahou street and a line drawn makai in extension thereof to the water front. It shall not be lawful for anyone to manufacture poi for sale in the said district of Honolulu, outside of said limits, except upon receiving a permit from the board of health, which permits may be revoked at any time by said board.

§ 933. The superintendent of public works shall cause to be constructed at a suitable place or places within the limits mentioned in section 932, with such moneys as may be appropriated by the legislature a building or buildings specially designed for the manufacture of poi, which may be rented in sections to those wishing to engage in said manufacture.

§ 934. Said buildings and the manufacture of poi therein shall be subject to regulations duly made by the board of health, and to rules made by the superintendent of public works.

§ 935. Each section in said buildings shall be rented annually to the highest bidder at a public sale, due notice of which shall have been given at least two weeks previously, the amount of such annual rental in each case to be not less than a certain upset price to be fixed by the superintendent of public works.

§ 936. Anyone engaging in the manufacture of poi contrary to the provisions of sections 932–937 shall be deemed guilty of a misdemeanor and shall, on conviction of the same, be subject to a fine of not less than twenty-five dollars, and not more than one hundred dollars.

§ 937. Sections 932–937 shall not take effect until the building or buildings provided for in section 933 hereof shall have been constructed and due public notice of the same be given.

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PART VIII.—SANITARY CONDITION OF DWELLING HOUSES.

WHEREAS on account of the overcrowding of persons in certain localities it is expedient to provide for the sanitary condition of dwelling houses and their surroundings: Therefore,

§ 938. Every house or tenement used or occupied as a dwelling for lodgers or contract laborers shall be kept by its owner in good repair, with the roof water-tight, and shall have the capacity of not less than three hundred cubic feet of space for each adult, or nine hundred cubic feet for one man and woman and two children.

§ 939. The yard and grounds about all dwellings shall be well drained and kept free from rubbish of every description, with a closet, or privy, also to be kept in repair by the lodging-house keeper or employer of laborers, for every six adults.

§ 940. Every owner or keeper and every other person having the care or management of a lodging house or of a dwelling for contract laborers, shall at all times when required by the board of health or its agents give free access to such house or any part thereof.

§ 941. Every lodging house keeper or employer of laborers who shall fail to comply with the provisions of sections 938–942 shall pay a fine not exceeding fifty dollars.

§ 942. Every person who shall keep a dwelling in so filthy a state as to be a nuisance or injurious to health, or who shall refuse or neglect to remove any nuisance or substance he may have caused or placed in the vicinity of the dwelling he occupies or any other dwelling, or shall commit any nuisance in any stream or thoroughfare, shall, on conviction, pay a fine not exceeding three dollars, or be imprisoned at hard labor for any term not exceeding thirty days.

PART IX.—IMPROVEMENT OF LAND.

§ 943. Whenever in the opinion of the board of health any tract or parcel of land situated in the district of Honolulu, Island of Oahu, shall be deleterious to the public health in consequence of being low, and at times covered or partly covered by water, or of being situated between high and low water mark, or of being improperly drained, or incapable by reasonable expenditure of effectual drainage, or for other reason in an unsanitary or dangerous condition, it shall be the duty of the board of health to report such fact to the superintendent of public works, together with a brief recommendation of the operation deemed advisable to improve such land.

§ 944. It shall be the duty of the superintendent of public works, upon the receipt of such notice, to cause a copy of same to be served upon the owner or owners of such land, and also a notice that in case such owner or owners fail to carry out the improvements recommended by the board of health within thirty days, or such further time in special cases as to such superintendent may seem reasonable, that such work will be done by the government at the cost of such owner.

§ 945. Service of such notice upon the owner in person, if resident within the Territory, or upon his agent if a nonresident, or upon the occupant of such land if the owner be unknown, or upon the guardian if the owner be a minor or person under guardianship, shall be deemed good and sufficient service. If such land is unoccupied and the owner or his place of residence be unknown, or if he be under age or incompetent, having no guardian in this country, such notice shall be published for three consecutive weeks at least once each week, in some newspaper

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published in Honolulu; and such publication shall be deemed good and sufficient notice. The notice in all cases may be general in terms and addressed to all persons whom it may concern.

§ 946. During the period of thirty days mentioned in section 944, the owner or claimant of the land sought to be improved, his attorney or agent, may file an appeal from the decision of the board of health condemning the land as deleterious to the public health, with the superintendent of public works, whereupon the superintendent shall transmit the appeal to the district magistrate of Honolulu.

§ 947. Whenever an appeal shall be made as provided in section 946, the superintendent of public works shall appoint two disinterested persons to act in conjunction with the district magistrate to whom the appeal shall have been transmitted, who shall sit as a board of commissioners to hear and determine the question as to whether or not the land is deleterious to public health, and a decision of a majority of the commissioners shall be final and conclusive upon all parties in interest; the commissioners appointed by the superintendent of public works shall be entitled to receive as compensation the sum of five dollars per day of actual sitting.

§ 948. In case no appeal shall be made from the decision of the board of health condemning the land as deleterious to the public health, or the board of commissioners shall so find, then the nature of the improvement to be made shall be subject to review by the superintendent of public works, whose conclusion shall also be final and not subject to review, except by the executive council.

§ 949. If such land remains unimproved for thirty days from the date of the service of such notice, or of such publication, or for the extended time granted by said superintendent, it shall be the duty of the superintendent of public works, in case no appeal is filed in accordance with section 946, to forthwith carry out the recommendations of the board of health, or such modification of the same as the governor may direct. The cost of such improvement shall constitute a lien upon said premises, which shall have priority over all other liens.

§ 950. There shall be recorded in the office of the registrar of conveyances a notice of the amount of such lien and a brief description of the land on which the same is a charge, together with the name of the last known owner. A notice of the amount of such lien shall also be served upon the owner if within the reach of service, or published in the manner above provided.

§ 951. Said lien may be foreclosed at any time after six months and within three years from the date of the notice last named, by suit in equity or by public sale by such superintendent. Foreclosure without suit shall be preceded by the publication of a notice naming the time and place of such sale, the amount of such lien, and the location of such land, for at least three times in a weekly paper published in Honolulu. Said premises shall be offered at public auction at an upset price equal to the amount of said lien and the cost of all advertising incurred, and if no higher price is bid shall be knocked down to the government of Hawaii. Such sale shall be effectual to convey the title to such purchaser. Only the balance of the amount received after satisfying such lien shall be subject to suit by any claimant. In case of a surplus and uncertainty as to the person, such surplus shall be deposited in the circuit court for the benefit of whom it may concern.

§ 952. All such liens shall be presumed to have been satisfied at the expiration of three years from the date of record.

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PART X.—BIRTHS, DEATHS, AND MARRIAGES.

DEFINITIONS.

§ 953. Wherever in sections 953–972 the word "board" is used, it shall refer to and mean the board of health of the Territory of Hawaii, unless the context shall indicate some other meaning.

Wherever in sections 953–972 the word "registrar" is used, it shall refer to and mean the registrar or registrars of births, deaths, and marriages, who shall be appointed by the board of health under and by virtue of sections 953–972.

REGISTRARS OF BIRTHS, DEATHS, AND MARRIAGES.

§ 954. The board is hereby empowered and directed to appoint a registrar of births, deaths, and marriages in and for each judicial district in the Territory.

The board may, in its discretion, subdivide any district, if the public convenience requires it, and appoint a registrar for each of such subdivisions.

§ 955. It shall be the duty of each registrar to keep in proper books, used solely for such purpose, a full and complete record of all the births, deaths, and marriages which take place in the district of which he is the registrar.

FACTS TO BE RECORDED.

§ 956. Each registrar shall enter in said record, in respect of each birth occurring in his district, the following facts, so far as they can be ascertained by him, viz:

The name of the father, the name of the mother, the date of the birth, the sex of the child, the name of the child, if it has been named, the locality of its birth, and whether the child is legitimate or illegitimate.

§ 957. Each registrar shall enter in said record, in respect of each death occurring in his district, the following facts, so far as they can be ascertained by him, viz:

The name, sex, age, cause of death, nationality, last place of residence, and the locality of the death of the deceased, name of physician attending, if any.

§ 958. Each registrar shall enter in said record, in respect of each marriage occurring in his district, the following facts, so far as they can be ascertained by him, viz:

The full name of each of the parties, the full name of the father and mother of each of the parties, the age of each of the parties, and the residence of each of the parties.

DUTIES OF REGISTRARS.

§ 959. It shall be the duty of each registrar in and for his district, not only to compile the information furnished to him by the persons who by sections 953–972 are directed to furnish him with information, but himself to investigate and procure and record the information hereby directed to be recorded.

It shall also be the duty of each registrar to prosecute or cause to be prosecuted any person who shall violate or fail to observe or perform any of the requirements of sections 953–972, or any of the rules and regulations made and published by the board under or by virtue of sections 953–972.

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§ 960. It shall be the duty of each registrar at the end of each month to transmit to the board a full copy of the records of births, deaths, and marriages made by him during said month.

§ 961. The board shall cause all blanks and record books which may be necessary or proper for carrying out the objects of sections 953–972 to be prepared and shall furnish the same to the registrars and other officers herein provided for free of charge.

SUPERVISION OF BOARD—RULES AND REGULATIONS.

§ 962. The board shall have the full supervision of the carrying out of sections 953–972, and shall have the right to direct any or all of the registrars or other officers herein provided for to keep other records and statistics than those herein provided for; and shall also have the right and authority to make all rules and regulations which in the discretion of the board are necessary for more effectually securing the registration of full and accurate information concerning births, deaths, and marriages.

Such rules and regulations shall, after approval by the governor and publication, have the force and effect of and shall be law.

REPORTS BY INDIVIDUALS.

§ 963. It shall be the duty of the father of each and every child born in the Territory of Hawaii, or, if the father be absent from the country at the time of the birth, or not living, or if the child be illegitimate, then it shall be the duty of the mother of such child, within thirty days after the birth of such child, to notify the registrar of births, deaths, and marriages of the district in which such birth takes place, of the date of birth, sex, and name of such child, if named, the names of the parents of such child, whether it is legitimate or illegitimate, and the locality of the birth.

It shall also be the duty of every physician who shall attend, or be called upon in connection with the birth of any child in the Territory of Hawaii, within thirty days after such birth, to report such birth and the other facts relating to such child in this section above set forth.

REPORTS TO REGISTRAR OF DEATHS.

§ 964. It shall be the duty of every owner of any building or premises in or upon which the death of any person shall take place in the Territory of Hawaii to immediately report said death to the registrar of the district in which it took place, giving so far as he is able to do so the name, sex, age, cause of death, nationality, last place of residence of the deceased, and the locality in which the death took place; or if the building or premises in or upon which said death takes place is leased or occupied by someone other than the owner thereof, then it shall be the duty of the lessor or occupier of said building or premises to immediately report to the registrar all of the facts in this section hereinbefore set forth.

§ 965. It shall be the duty of every minister of religion who shall officiate at any burial of any deceased person, and of every undertaker or other person who attends to the burial of any deceased person, and of every hospital officer, health agent, and of every relative of any deceased person, to give to the registrar of the district in which such death has taken place, all the information within their knowledge con-

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cerning any deceased person, if and whenever said registrar shall request the same.

§ 966. It shall be the duty of every person legally authorized to perform the marriage ceremony, who shall at any time perform the marriage ceremony, to immediately report each such marriage to the registrar of the district in which such marriage takes place, and state to him the full names, the age, the residence, the nationality, andthe full names of each of the parents of each of the parties to such marriage.

§ 967. It shall be the duty of every person legally authorized to grant licenses to marry, to immediately upon the issuing of any marriage license, report to the registrar of the district in which such marriage license is issued, the full names, the age, the residence, the nationality, and the full names of each of the parents of each of the parties by such license authorized to marry.

§ 968. It shall be the duty of the secretary of the board to copy into books provided by the board for that purpose, all of the records of births, deaths, and marriages received from the several registrars.

The records of births, deaths, and marriages, and the island and districts in which they occurred, shall each be kept separately in chronological order.

§ 969. All records by sections 953–972 directed to be kept shall, during all business hours, be open to the inspection of the public.

§ 970. The secretary of the board shall furnish to any person applying for the same, a certified copy of the record of any birth, death, or marriage contained in any of the records kept under or by virtue of sections 953–972; such certified copy shall be competent evidence in any court of the fact therein contained, for which certified copy the sum of one dollar shall be charged and paid and accounted for to the public treasury.

PENALTIES.

§ 971. Any person who shall violate or who shall fail to observe or perform any of the requirements of sections 953–972, or any requirement of any rule or regulation made and published by the board under or by virtue of sections 953–972, shall, upon conviction of such violation or failure before any district court, be fined for such violation or failure a sum not to exceed fifty dollars.

§ 972. If any physician, sheriff, deputy sheriff, magistrate or assessor is appointed a registrar, it shall become a part of his official duties to perform the duties of registrar without further compensation.

NOTE TO CHAPTER 59.

PART I.

§ 868 is P. C., act 18.
§§ 869–874 are P. C., c h. 59, §§ 3–8.
§ 875 is S. L., 1876, ch. 11, C. L., p. 76.
§ 876 is P. C., ch. 59, § 31.

PART II.

§§ 887–880 are P. C., ch. 59, §§ 9–12.
§§ 881–883 are S. L. 1870, ch. 9, C. L., 254.
§ 884 is P. C., ch. 59, § 13.
§ 885 is S. L. 1868, C. L., p. 72.

PART III.

§§ 886–893 are P. C., ch. 59, §§ 14–21.
§§ 894–898 are S. L. 1892, ch. 43.
§§ 899–906 are S. L. 1896, act 18.

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PART IV.

§§ 907–914 are P. C., ch. 59, §§ 22–29.

PART V.

§§ 915–923 are P. C., ch. 59, §§ 32–40.
§§ 924–926 are S. L. 1892, ch. 67.

PART VI.

§§ 927 and 929 are S. L. 1896, act 4.
§§ 928, 930, and 931 are S. L. 1880, ch. 8, C. L., p. 640.

PART VII.

§§ 932–937 are S. L. 1888, ch. 17.

PART VIII.

§§ 938–942 are S. L. 1880, ch. 3, C. L., pp. 463 and 637.

PART IX.

§§ 943–952 are S. L. 1896, act 61.

PART X.

§§ 953–972 are S. L. 1896, ... 50.

Cases in Hawaiian Reports: R. v. Tong Lee, 4 Haw., 335; Minister v. Hackfeld, 4 Haw., 420; The Madras, 5 Haw., 116; Segregation of Lepers, 5 Haw., 164; Hutchinson v. Nebraska, 6 Haw., 100; Peterson v. Carter, 6 Haw., 285; Lopez v. Ah Man, 7 Haw., 2; Rego v. Mahoe, 7 Haw., 624; Re Cabinet, 8 Haw., 568; R. v. Kum...., 10 Haw., 491.

CHAPTER 60.

CORONER'S INQUEST.

§ 973. The chief sheriff, deputy chief sheriff, sheriffs and deputies sheriff, and in all other districts than Honolulu and Lahaina the several district magistrates shall *ex officio* act as coroners without extra compensation.

§ 974. As soon as any coroner shall have notice of the death of any person within his jurisdiction, supposed to have come to such death by poisoning, violence, or in any suspicious manner, he shall forthwith issue his summons to six good and lawful men of the district where such death may have occurred, or in which the dead body may have been found or is at the time lying, to appear before him at the time and place expressed in the warrant, and there to inquire upon the view of the body of the deceased, when, how, and by what means he came to his death.

In all cases of sudden death the coroner shall inquire into the cause, and, in his discretion, shall cause an inquest to be held even if he is not satisfied that there are suspicious circumstances attending the death.

All persons summoned to serve on a coroner's jury shall be paid two dollars per day for each day's actual attendance; and if any person summoned to serve on such jury shall fail to appear, without reasonable excuse therefor, he may be fined by the coroner, not exceeding ten dollars; and the coroner may issue process to any constable for the collection of any fines thus imposed.

§ 975. If the six jurors summoned shall not all appear, the coroner may summon other jurors from the bystanders, or others, to complete the number.

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§ 976. When the jury is complete, the coroner shall call over their names, and then in view of the body he shall administer to them the following oath:

"You solemnly swear that you will diligently inquire, and true presentment make, when, how, and by what means the person whose body lies here dead came to his death; and you shall return a true inquest thereof according to your knowledge and such evidence as shall be laid before you: So help you God."

§ 977. The coroner may issue subpœnas for witnesses, returnable forthwith, or at such time and place as he shall therein direct, and may enforce the same by fine or imprisonment, or both, in the discretion of said coroner.

§ 978. An oath to the following effect shall be administered by the coroner to the witnesses:

"You solemnly swear that the evidence which you shall give to this inquest, concerning the death of the person here lying dead, shall be the truth, the whole truth, and nothing but the truth: So help you God."

§ 979. The testimony of all witnesses examined before any inquest shall be reduced to writing by the coroner, or some other person by his direction, and subscribed by the witnesses.

§ 980. The jury, upon the inspection of the dead body, and after hearing the testimony of the witnesses, and making all needful inquiries, shall draw up and deliver to the coroner their inquisition under their hands.

§ 981. Every coroner's jury shall, if possible, find and certify when, how, and by what means the deceased person came to his death, and his name, if it was known, together with all the material circumstances attending his death; and if it shall appear that he was murdered, the jury shall state who were guilty, either as principal or accessory, if known, or were in any manner the cause of his death. The form of the inquisition may be in substance as follows:

"An inquisition taken at ———, island of ———, on the —— day of ———, in the year ———, before ———, one of the coroners of said island, upon the body of ———, (or a person) there lying dead, by the oaths of the jurors whose names are hereunto subscribed, who, being sworn to inquire when, how, and by what means the said ———, (or person) came to his death, upon their oaths do say (then insert when, how, and by what person, if known, means, weapons, or instruments he was killed). In testimony whereof, the said coroner, and the jurors of this inquest, have hereunto set their hands, the day and year aforesaid."

§ 982. If the jury find that any murder, manslaughter, or assault had been committed on the deceased, the coroner shall bind over by recognizance, or, if necessary, commit to jail, such witnesses as he shall think proper, to appear and testify upon the trial of any person who may be indicted for such offense. The coroner shall return to the court before which such trial is to be had the inquisition, written evidence, and all recognizances and examinations by him taken.

§ 983. If any person charged by the inquest with having committed such offense shall not be in custody the coroner shall have the power to issue process for his apprehension, and such process shall be made returnable before any district magistrate, or any other magistrate or court having jurisdiction in the case, who shall proceed therein in the same manner as if he had issued such process himself.

§ 984. When any coroner shall take an inquest upon the dead body

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of a stranger, or, being called for that purpose, shall not think it necessary on view of such body, that any inquest should be taken, he shall cause the body to be decently buried.

§ 985. No fees shall be paid to jurors or witnesses attending upon any coroner's inquest, but all the reasonable expenses of the inquisition shall be paid to the coroner from the public treasury, the account of such expenses being first examined and allowed by the governor.

NOTE TO CHAPTER 60.

§ 973 is S. L. 1892, ch. 45.
§ 974 is S. L. 1878, act 9.
§§ 975-985 are P. C. ch. 60, §§ 2-13.

CHAPTER 61.

FOR THE PROTECTION OF PLACES OF SEPULTURE.

§ 986. If any person, not having any legal right to do so, shall wilfully dig up, disinter, remove, or convey away any human body from any burial place, or shall knowingly aid in such disinterment, removal, or conveying away, every such offender and every person accessory thereto, either before or after the fact, shall be punished by imprisonment at hard labor for not more than two years or by a fine not exceeding one thousand dollars.

NOTE TO CHAPTER 61.

§ 986 is P. C. ch. 61 unaltered.

CHAPTER 62.

TO PREVENT THE SPREAD OF LEPROSY.

PART I.—SEGREGATION.

§ 987. The president of the board of health is hereby expressly authorized, with the approval of the said board, to reserve and set apart any land or portion of land now owned by the government for a site or sites of an establishment or establishments to secure the isolation and seclusion of such leprous persons as in the opinion of the board of health or its agents may, by being at large, cause the spread of leprosy.

§ 988. The president of the board of health, acting with the approval of the said board, may acquire for the purpose stated in the preceding section, by purchase or exchange, any piece or pieces, parcel or parcels of land which may seem better adapted to the use of lepers than any land owned by the government.

§ 989. The board of health, or its agents, are authorized and empowered to cause to be isolated and confined in some place or places for that purpose provided, all leprous patients who shall be deemed capable of spreading the disease of leprosy; and it shall be the duty of every district magistrate, when properly applied to for that purpose by the board of health or its authorized agents, to cause to be arrested and delivered to the board of health or its agents, any person alleged to be a leper within the jurisdiction of such district magistrate; and it shall be the duty of the chief sheriff of the Hawaiian Islands and his deputies, and of the police officers, to assist in securing the conveyance of any person so arrested to such place as the board of health

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or its agents may direct, in order that such person may be subjected to medical inspection, and thereafter to assist in removing such person to a place of treatment, or isolation, if so required by the agents of the board of health.

§ 990. The board of health is authorized to make arrangements for the establishment of hospitals on each island where leprous patients in the incipient stages may be treated in order to attempt a cure; and the said board and its agents shall have full power to discharge all such patients as it shall deem cured, and to send to a place of isolation contemplated in sections 987 and 989 all such patients as shall be considered incurable or capable of spreading the disease of leprosy.

§ 991. The board of health or its agents may require from patients such reasonable amount of labor as may be approved of by the attending physicians; and may further make and publish such rules and regulations as by the said board may be considered adapted to ameliorate the condition of lepers, which said rules and regulations shall be published and enforced as in sections 873 and 874 provided.

§ 992. No person, not being a leper, shall be allowed to visit or remain upon any land, place, or inclosure set apart by the board of health for the isolation and confinement of lepers without the written permission of the president of the board or some officer authorized thereto by the board of health, under any circumstances whatever, and any person found upon such land, place, or enclosure without a written permission, shall, upon conviction thereof before any district magistrate, be fined in a sum not less than ten no more than one hundred dollars for such offense, and in default of payment to be imprisoned at hard labor until the fine and costs of court are discharged in due course of law.

§ 993. It shall be lawful for the board of health, through its president, to make and promulgate such rules and regulations as may be from time to time necessary for the government and control of the lepers placed under their charge, and such rules and regulations shall have the same force and effect as a statute law of the Territory, provided always, that the sanction of the governor be given thereto, and that they be published in two newspapers published in Honolulu, one in the Hawaiian, the other in the English language.

§ 994. The board of health, while keeping an accurate and detailed account of all sums of money expended by them out of any appropriations which may be made by the legislature, shall keep the account of sums expended for the leprosy distinct from the general account. And the said board shall report to the legislature at each of its regular sessions the said expenditures in detail, together with such information regarding the disease of leprosy, as well as the public health generally, as it may deem to be of interest to the public.

§ 995. The board of health is hereby authorized to permit any person to engage in the treatment of lepers or of persons supposed to have leprosy. Such permits shall be under such conditions and regulations as the board shall prescribe, and be revocable at the pleasure of the board.

§ 996. Whoever shall knowingly detain or harbor upon premises subject to his control, or shall in any manner conceal or secrete or assist in concealing or secreting, any person afflicted with leprosy, with the intent that such person be not discovered by or delivered to the board of health or its agents, or who whall support or assist in supporting any person having leprosy living in concealment, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof

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before any district magistrate, be liable to a fine of not more than one hundred dollars.

§ 997. It shall be the duty of every police officer or deputy sheriff, having reason to believe that any person within his district is afflicted with leprosy to report the same forthwith to the agent of the board of health in such district, if any, otherwise to the nearest agent of the board of health.

§ 998. Any police officer or deputy sheriff who shall wilfully fail to comply with the provisions of section 997 shall be deemed guilty of a misdemeanor, and, and upon conviction thereof before any district magistrate, shall be fined in a sum not less than ten dollars nor more than two hundred dollars, and shall be dismissed from office.

PART II.—KOKUAS.

WHEREAS it is deemed expedient that the husband or wife of a leper should, in ordinary cases, be allowed to remain as a helper or kokua with such leper when segregated;

AND WHEREAS it is inexpedient to allow the privilege aforesaid without giving the board of health full power and control over helpers or kokuas, owing to the fact that many kokuas become infected with leprosy and capable of communicating the same to others, though showing no signs of the disease themselves: Therefore,

Be it enacted, etc.:

§ 999. Voluntary helpers or kokuas living with lepers segregated by the board of health may be by such board declared infected with the disease of leprosy and capable of communicating the same to others. All such kokuas are hereby placed under control of the board of health, and may be prevented by it from intermingling with those free from the disease.

§ 1000. The board of health, with the consent of the governor, is empowered to make and promulgate such rules and regulations in regard to said helpers or kokuas for their care, discipline, and maintenance as may be deemed necessary, which rules and regulations shall have the force and effect of law when promulgated.

WHEREAS many doubts and disputes have arisen as to what the duties to be performed by those persons who have become "kokuas" of those afflicted with leprosy consist of; and

WHEREAS it is proper in order to remove such difficulty that the nature of such duties to be performed by such kokuas be distinctly provided for by law: Therefore,

Be it enacted, etc.:

§ 1001. Every kokua who has heretofore received permission, or who may hereafter get permission, to go to the leper settlement according to law shall perform the duties of kokua to their leper friends as provided in the section 1002 and in no other way.

§ 1002. The duties to be performed by the kokuas of the lepers shall be that each kokua must take care of the leper or lepers that he went there to assist, and to go and get and prepare in a suitable manner all food and other supplies that are furnished by the government to the lepers, and attend to the clothing and other things that would contribute to the comfort of the lepers whose kokuas they are. And said kokuas shall also perform such labor and service as may be required by the board of health when requested to do so by the superintendent of the leper settlement, for which services they shall be paid such wages as are deemed fair and just by the board of health, such wages

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to be not less than fifty cents per diem. And any kokua refusing to perform such labor as above stated, or who shall violate any rule or regulation of the board of health, shall be liable on conviction before a district magistrate to expulsion from the settlement.

PART III.—TRANSPORTATION.

§ 1003. No steam coasting vessel licensed to carry passengers and engaged in the regular performance of that business, according to published schedules of sailing times, and whose net tonnage exceeds two hundred and fifty tons, shall be compelled or allowed while so engaged to carry to or from any port or place in the Hawaiian Islands any leper or any person or persons suffering from any contagious or infectious disease.

§ 1004. The master or owner of any such vessel knowingly violating the provisions of section 1003 shall be guilty of a misdemeanor, and upon conviction before any district magistrate shall be fined in a sum not to exceed two hundred dollars.

§ 1005. Any person violating the provisions of section 1003 shall be deemed guilty of a misdemeanor, and upon conviction thereof before any district magistrate shall be fined in a sum not to exceed two hundred dollars.

PART IV.—ACQUISITION OF LAND.

GOVERNMENT RESERVATION.

§ 1006. The superintendent of public works is hereby empowered to purchase all lands, the title to which is now held and owned by private persons within the precincts of the government reservation, used for the leper settlement at Molokai.

§ 1007. In every case where no agreement about the price of such lands can be made between the superintendent of public works and the owners, there shall be appointed three disinterested persons who shall appraise the value of said lands and improvements, one of whom shall be appointed by the superintendent, one by the owner of the land, and the two thus appointed shall choose the third member, and such appraisement shall be binding upon the parties, unless the party who may be dissatisfied with such appraisement shall, within twenty days after notice of such appraisement, appeal therefrom.

§ 1008. The appeal mentioned in section 1007 shall be taken to the supreme court, sitting in banco, who shall decide the question upon the testimony presented before the appraisers, and no new evidence shall be allowed to be given on such appeal. The supreme court may, upon such appeal, approve, reverse, or modify the appraisement, and such decision of the supreme court shall be final and binding upon the parties to the controversy; and the owner of said land shall not be subjected to the payment of the costs of such appeal.

§ 1009. The owner of such lands shall deliver possession of the same to the officers in charge of the leper settlement within sixty days after the appraisement becomes final, and the superintendent of public works shall forthwith, after such delivery, pay to the owner the sum fixed by the appraisement or decision; and upon such payment the title to said lands shall become and remain vested in the government.

§ 1010. A copy of the appraisement or decision, duly certified with the certificate of the superintendent of public works, of the payment or tender of the sum appraised or decreed duly acknowledged by said superintendent, shall be recorded and be deemed sufficient record evidence of the change of title.

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ON MOLOKAI.

§ 1011. The superintendent of public works is hereby authorized and empowered to enter upon and take possession of and hold for the use of the government such land, real estate, and property wheresoever situated on the island of Molokai, in the Hawaiian Islands, as may be required by the board of health for the segregation and confinement of lepers, or for other purposes of the board of health.

§ 1012. Whenever the board of health may require any parcel of land or property on the island of Molokai for any such purposes, the president of the board shall so inform the superintendent of public works in writing, stating the location and area of such land or property so far as may be known to him, and the purpose for which the same is required, with a request that the same be acquired by the government. If upon receipt of such request and information the said superintendent shall deem the same to be reasonable and proper, he shall, after first giving thirty days' written notice to the occupants of such land or property, take possession of the same for the use of the government: Provided, however, that if such land or property is not actually occupied by any person, the said superintendent may take immediate possession of the same.

§ 1013. Whenever the superintendent of public works shall proceed to take possession of any land or property under the provisions of sections 1011–1020, he shall first endeavor to agree with the owners (if known to him) of such land or property upon the amount to be paid them for the land or property taken or proposed to be taken, or to compromise with them, and in case of failure to agree with them he shall appoint three competent and disinterested persons to act as commissioners to ascertain and determine such compensation.

§ 1014. The commissioners so appointed shall give notice to the owners, if known to them and resident within the Hawaiian Islands, whose property has been taken or is proposed to be taken. If the owners of such land or property be unknown or can not be served by reason of nonresidence or other cause, then a notice posted in a conspicuous place on the land or property, or left at the owner's, occupant's, tenant's, or agent's residence shall be deemed sufficient notice. Such notice may be in general terms and addressed to all persons interested.

§ 1015. Such notice shall describe the land or property taken or proposed to be taken, and state the time and place at which the commissioners will meet to hear the claimants and take evidence as to the amount of compensation to which they are entitled. At every such meeting the commissioners shall take such testimony as they deem necessary, and they or a majority of them shall determine upon the proper compensation to be made. The decision arrived at by the commissioners shall be final and binding unless an appeal is taken as hereinafter provided. The commissioners shall have power to administer oaths, subpœna witnesses, and grant continuances in like manner as district magistrates.

§ 1016. The commissioners, or a majority of them, shall make, subscribe, and file with the superintendent of public works, within such reasonable time as shall be fixed upon by said superintendent, a certificate of their findings and appraisement, in which the land or property so valued shall be described with convenient accuracy and certainty.

§ 1017. Upon the filing of the certificate as provided in the preceding section, the superintendent of public works is hereby authorized to

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pay to the person or persons named in the certificate the several amounts determined upon by the commissioners, out of any appropriation available for the purpose; provided, always, that either party feeling aggrieved by the decision of the commissioners may appeal to the circuit court of the first judicial circuit.

§ 1018. All appeals must be taken within twenty days after the date of the filing of the certificate with the superintendent of public works, by filing with the commissioners a written notice of appeal, and filing with the clerk of the judiciary department a bond in the sum of fifty dollars, conditioned to secure payment of future costs: Provided, however, that fifty dollars in money may be deposited in lieu of a bond.

Such appeal shall not prevent the superintendent from retaining or taking possession of the land or property mentioned and valued in the certificate.

§ 1019. A copy of the final appraisement or decision duly certified by the superintendent of public works, under the seal of his office, shall be recorded in the office of the registrar of conveyances, and shall operate as a deed of conveyance in fee simple from the owners of the land or property to the Hawaiian government.

§ 1020. The superintendent of public works shall, on receiving the certificate of appraisement, pay to the commissioners such reasonable compensation for their services as he shall determine upon, and he shall have power to fill any vacancy in their number caused by death or otherwise.

NOTE TO CHAPTER 62.

PART I.

§§ 987–989 are P. C., ch. 62, §§ 1–3.
§ 990 is S. L., 1884, ch. 24.
§ 991 is P. C., ch. 62, § 5.
§§ 992–993 are S. L., 1870, ch. 33, C. L., p. 522.
§ 994 is P. C., ch. 62, § 7.
§ 995 is S. L., 1892, ch. 54.
§§ 996–997 are S. L., 1892, ch. 66.
§ 998 is S. L., 1888, ch. 74.

PART II.

§§ 999–1000 are S. L., 1888, ch. 61.
§§ 1001–1002 are S. L., 1890, ch. 79.

PART III.

§ 1003 is P. G., act 30; also S. L., 1888, ch. 48.
§ 1004 is P. G., act 30.
§ 1005 is S. L., 1888, ch. 48.

PART IV.

§§ 1006–1010 are S. L., 1884, ch. 37.
§§ 1011–1020 are P. G., act 55.
The attorney-general is now president of the board of health. See chapter 59.
P. C., ch. 62, § 6, was repealed S. L., 1874, ch. 11.
Cases in Hawaiian Reports: Segregation of Lepers, 5 Haw., 162; Re Cabinet, 8 Haw., 568.

CHAPTER 63.

FIRES AND FIREPROOF BUILDINGS.

PART I.—FIRE DEPARTMENT OF HONOLULU.

§ 1021. There shall be a fire department for the city of Honolulu, which shall consist of a board of commissioners consisting of three members, who shall be appointed by the superintendent of public

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works and commissioned for two years, and who shall serve without pay; a chief engineer, who shall be appointed by the board of commissioners. There shall be three or more fire companies under pay, in the discretion of the board of commissioners, and such other volunteer companies as the commissioners shall deem fit. The general care and supervision of the department shall be under the direction of the board of commissioners, who shall also have power to issue such general rules and regulations for the government of the department as they shall deem necessary. The superintendent of public works, with the consent of the governor, may remove any commissioner and may fill all vacancies in the board of commissioners.

§ 1022. The chief engineer shall have the care, control, and custody of the property of the fire department, and shall be responsible to the board of commissioners for the same; and he shall also, by and with the approval of the board of commissioners, make all expenditures of moneys appropriated for the Honolulu fire department; and he shall not contract any debts on behalf of the department, or dispose of any property belonging to the same, without the consent of the board of commissioners. In all cases of fire he shall have the sole and absolute control and command over all members of the entire department, and it shall be his duty to cause the several engines and apparatus to be located in the most advantageous situations and duly worked for the effectual extinguishing of fires. He may, with the approval of the board of commissioners, grant the custody and use of fire engines, fire buckets, and other fire apparatus belonging to the government to such firemen as he may deem proper and assume the control of the same, with the said commissioners' approval. He shall, as often as once a month, examine into the condition of the fire engines, houses, fire buckets, and other fire apparatus, and shall every six months report and return to the board of commissioners the expenses of the fire department for such period, the number of fires which have occurred during the period, with the names of owners and occupants of the premises or property damaged or destroyed; the cause or origin of the fire, if known, and the amount of loss or damage and of the insurance on the property, the condition of the fire engines, carriages, apparatus, and property of the department, and the standing and condition of the companies. When any of said fire engines shall require to be repaired, the chief engineer shall cause the same to be well and sufficiently repaired.

§ 1023. In case the chief engineer shall be absent from a fire, the senior foreman shall assume his duties.

§ 1024. The chief engineer shall divide the city of Honolulu into fire districts and report their boundaries to the board of commissioners, and shall keep a record of the names of the occupants of the houses or other buildings where he shall observe any violation of the provisions of this law.

§ 1025. It shall be the duty of the chief engineer, once every three months and as much oftener as he may deem proper, to examine the dwelling houses, stores, places of business, and other buildings in the respective districts for the purpose of ascertaining any violation of this law; and also to examine the fireplaces, hearths, chimneys, stoves, and stovepipes in the respective districts, and upon finding any of them defective or dangerous he shall direct the owner or occupants of said premises, by written or printed notice, to alter, remove, or amend the same, and in case of neglecting to do so the party offending shall be guilty of a misdemeanor and punished on conviction as herein-

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after provided. The chief engineer shall, once in every three months and as much oftener as may be necessary, make full report of all matters relating to his duties to the board of commissioners, and also shall report to the superintendent of public works each week any violations of the laws relating to fireproof buildings.

§ 1026. It shall be the duty of all firemen, whenever any fire shall break out in the city, to repair immediately to said fire with their respective engines, hose, carriages, hooks, ladders, and other apparatus, and there to work and manage such fire engines and other fire implements with all their skill and power as the chief engineer may direct, and they shall not remove therefrom without the permission of the chief engineer.

§ 1027. If any fireman shall neglect to attend any fire, or leave his engine or other apparatus while at any fire without permission, or shall neglect to do his duty on such occasion without reasonable excuse, he shall, for every such default, pay such penalty as the majority of the board of commissioners shall fix, and may, by a vote of the majority of said commissioners, be dismissed as a fireman.

§ 1028. No person or persons shall break through, or attempt to break through, any blockade established by the department, or run over with any vehicle the line of hose in use at a fire; and any person so doing shall be guilty of misdemeanor and be subject to fine of not more than two hundred and fifty dollars.

§ 1029. No person shall, unless by permission of the chief engineer, kindle any fire, nor in any way authorize any fire to be made, in any street, road, lane, market place, or other highway, or on any pier or wharf in the city, except for the purpose of boiling tar, which fire shall not be more than ten feet from the end of the pier or wharf; and no person shall kindle or light, or cause to be lighted, any rubbish or any bonfire in any place whatsoever within a radius of one mile of the present site of the bell tower of Honolulu without the permit in writing of the chief engineer.

§ 1030. The chief engineer, by and with the approval of a majority of the board of commissioners, may direct any house or building to be pulled down, blown up, or otherwise demolished when they deem the same to be necessary in order to prevent the spreading of a fire.

§ 1031. The chief engineer may, during the continuance of a fire, require assistance from persons present for extinguishing the same and for removing furniture, goods, merchandise, and property from a building on fire or in danger thereof, and may appoint guards to secure the same. He may also require assistance for pulling down or demolishing a house or building when he judges it necessary, and may suppress all tumults and disorders at such fire. All persons at a fire shall obey the orders of the chief engineer.

§ 1032. During the prevalence of a fire it shall be lawful for the chief engineer, the foreman of companies, the chief sheriff and his deputies to remove or cause to be removed and kept away from the vicinity of such fire, by force if advisable, all idle and suspicious persons and all persons in their judgment not fit to be employed or not actually and usefully employed in aiding the extinguishing of such fire, or in the preservation of property in the vicinity thereof.

§ 1033. Any person cutting or in any way wantonly or intentionally injuring any portion of the fire apparatus shall be deemed guilty of misdemeanor, and upon conviction thereof shall be fined a sum not exceeding two hundred and fifty dollars.

§ 1034. It shall be the duty of all persons owning or occupying

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premises adjacent to a fire to allow free access to the same by the fire department, upon the order of the chief engineer or foreman of engines, for the purpose of obtaining water or using the fire apparatus for the extinguishing of any fire; and in case such access is refused, the chief engineer, or the person acting in his place, is hereby authorized forcibly to enter such premises for the purposes aforesaid; and no person shall refuse such free access or in any way obstruct the same.

§ 1035. All engines, carriages, and other movable apparatus of the Honolulu fire department shall have the paramount right of way through all streets, lanes, highways, and byways, places, and courts of the city and fire districts of Honolulu when running to a fire, and such apparatus, together with all other vehicles thereto, excepting street cars, shall take and keep the right side of the street, unless the same be obstructed, and all street cars in the vicinity of any such apparatus going to a fire shall retard or accelerate their speed, as may be required, in order to give the apparatus of the fire department the unobstructed use of the street for the time being.

§ 1036. No person or persons having the control of any vehicle shall wilfully or carelessly permit the same to obstruct the progress of the apparatus of the Honolulu fire department going to a fire.

§ 1037. Whoever wilfully, wantonly, or maliciously obstructs or retards the passage of an engine or any fire apparatus of the fire department while going to or at a fire shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding two hundred and fifty dollars.

§ 1038. Every building occupied as a dwelling house or a storehouse or a regular place of business in Honolulu shall be furnished with at least two fire buckets, which shall be kept in good condition, ready for use, in a conspicuous place, and upon which the name of the owner shall be painted, provided that an order to that effect, in writing or printing, shall first be given to the occupants of any such building by the chief engineer; and all such occupants who shall receive such order shall within five days thereafter provide, furnish, and maintain fire buckets as aforesaid.

§ 1039. The occupant or occupants of any building which may be on fire or in danger from any fire in its vicinity in which any explosive material or compound shall be stored or kept shall, immediately after the breaking out of such fire, give notice to the chief engineer, or either of the foremen who may be in command at such fire, of the nature, quantity, and place of storage of such explosive substance or compound, and shall also at said time give like notice to the owners or occupants of all adjacent buildings.

§ 1040. No person shall wilfully give a false alarm of fire in Honolulu.

§ 1041. Whosoever purloins, embezzles, conveys away, or conceals any furniture, goods, clothes, merchandise, or effects, property of persons whose houses, buildings, property, or effects are on fire or endangered thereby, and does not within twenty-four hours return the same or give notice of his possession thereof to the owner, if known, or, if unknown, to the chief engineer or the chief sheriff and his deputies, shall be deemed guilty of larceny, and upon conviction thereof shall be punished as provided by law.

§ 1042. Any person violating any provisions of this act shall be deemed guilty of a misdemeanor, and on conviction shall, unless otherwise provided herein, be punished by a fine in a sum of not more than two hundred and fifty dollars.

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§ 1043. The chief engineer of the fire department, the foreman of a company, and the chief sheriff and his deputies are directed to make complaints for violations of the provisions of sections 1021–1047.

§ 1044. The district magistrates shall have jurisdiction to try and determine all misdemeanors arising under sections 1021–1047, and all complaints for the violation of any of the provisions of this act, and to impose any of the penalties herein prescribed.

§ 1045. The board of commissioners, the chief engineer, the foreman of each company, and the paid members of the fire department, in active, regular employment, shall be exempt from being empanelled or returned upon any juries or inquests, and the names of such persons shall be registered with the clerk of the supreme court, and with the marshal, by the chief engineer.

§ 1046. The city of Honolulu, for the purpose of this law, shall comprise all the space within a radius of two miles from the present site of the bell tower.

§ 1047. The salary of the chief engineer and all other salaries and wages of the paid fire companies shall be determined by the board of commissioners, with the consent of the governor.

Moneys and Accounting.

§ 1048. All moneys belonging to or which shall be appropriated for or to the use or maintenance of the fire department of Honolulu shall be subject to the control of the board of representatives of said department in manner as herein provided, and no person or persons, without the consent of said board of representatives, shall have authority to draw or expend any of the moneys aforesaid or to incur any debt or obligation on account of, or to order any material, apparatus, or supplies for, said department: Provided, however, That the chief engineer or other officer of said department, upon the written order of said chief engineer, may make purchases of material, supplies, or apparatus for said department, to an amount not to exceed twenty dollars in any one instance.

§ 1049. Said board of representatives shall pass upon all proposals to purchase material, apparatus, and supplies, and upon all bills and accounts other than such as shall come within the above proviso, and if such proposals, bills, or accounts are approved by said board, such approval shall be certified by the secretary of said department upon such proposals, bills, or accounts, respectively, and such proposed purchase shall not be made, nor such bills or accounts be paid without such approval. Neither shall such proposals to purchase material, apparatus, or supplies be submitted to such board except in writing by the chief engineer or by the assistant engineer, who shall be discharging the duties of chief engineer, in case of the absence or disability of the chief engineer.

§ 1050. For the purposes of sections 1048–1051 such proposals to purchase material, apparatus, or supplies, or such bills or accounts shall be submitted to said board at a regular meeting thereof, as fixed by its laws or at a special meeting thereof, of which special meeting each member of said board shall have been served with written or printed notice at least forty-eight hours before the same shall be held. Such notice shall also specify such proposals to purchase, and such bills and accounts as it is proposed to submit to said board at such special meeting, and no proposal to purchase, nor any bill or account shall be so submitted or acted upon at any special meeting unless it shall

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have been so specified in the notice of such meeting as above provided. A majority of the members of said board shall be necessary to constitute a quorum for any of the purposes of sections 1048–1051, and a majority of the quorum present shall be necessary to approve any such proposal to purchase, bill, or account as aforesaid. And further provided that in case of emergency and urgent need said chief engineer may make such purchases as shall be necessary for immediate use.

§ 1051. Upon the approval of any such proposal to purchase material, apparatus, or supplies, or of any bill or account, and its certification to the superintendent of public works, as above provided, it shall be the duty of said treasurer (unless he shall believe and so certify upon such proposal, bill, or account, that the same does not legitimately pertain to the functions of said board and the purposes of said fire department) to provide for carrying into effect such proposal to purchase or to pay such bill or account, as the case may be, provided there are funds available in any appropriation for such purpose.

Part II.—Fire Department of Hilo.

§ 1052. There shall be a fire department for the town of Hilo, on the island of Hawaii, which shall consist of a chief engineer, not over two assistants, and as many firemen as may be approved by the board of representatives of the department, duly chosen as by its by-laws provided. The fire department of Hilo shall be under the general authority and control of the superintendent of public works.

§ 1053. The chief engineer and assistants shall be elected biennially on the first Monday of July. The first regular election shall take place in July, 1893, and such provisional department as may be organized prior to that time shall continue in office until such election shall have been held.

§ 1054. The method of holding elections, of regulating the affairs of the department, and of all business incident thereto, shall be prescribed in the by-laws to be enacted by the fire department, which by-laws may be from time to time amended or annulled, as may be prescribed in said by-laws. In case an office shall become vacant by death, resignation, or removal, the same shall be filled as shall be from time to time provided in the by-laws.

CHIEF ENGINEER.

§ 1055. The chief engineer shall be a resident of the town of Hilo, and shall be possessed of all the qualifications required by law for electors of representatives to the legislature. In case of the non-election of his successor at a regular election, he shall continue to hold office until such successor shall be duly elected.

§ 1056. The chief engineer shall have the care, custody, and control of the property of the fire department, and shall be responsible to the superintendent of public works for the same. He shall, with the consent and approval of said superintendent, make expenditure of moneys appropriated by the legislature for the Hilo fire department. He shall not contract any debt on behalf of the department, nor dispose of any property belonging to the same without the consent of the said superintendent. In case of fire he shall have the sole and absolute control and command over all the members of the fire department, and shall have general authority and control over the region in the neighborhood of such fire within reasonable limits, to be named by him if he

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shall deem fit. He shall assign to the custody of such fire companies as he may deem proper the custody and control of any portion of the property of the department. He shall, at least once in three months, examine into the condition of the property of the fire department, and shall, at least once each year, make report thereof to the superintendent of public works, together with a statement of all expenditures included in such period. He shall, at such times, also report the number of fires which shall have occurred during the period, together with the localities where the same occurred; the names and owners or occupants of the premises of the property damaged or destroyed; the cause or origin of the fire, if known, the amount of insurance, together with any other facts necessary to a complete understanding of the case, and such further information as may be required by said superintendent. He shall also cause the property of the department to be kept in repair.

§ 1057. The chief engineer shall also perform the duties required by law to be done and performed by the fire marshal in the city of Honolulu, in so far as the same may be applicable to the town of Hilo, and subject to such regulations as to dates and performance as may be regulated by the Hilo fire department.

§ 1058. The assistant engineer or engineers shall perform such duties as may be directed by the chief engineer or assigned to them by the fire department at meetings of the board of representatives. In case of the absence or disability of the chief engineer his duties shall be performed by the first assistant.

BOARD OF REPRESENTATIVES.

§ 1059. There shall be at all times a board of representatives of the fire department, which shall consist of the chief engineer, the assistants, the foreman, and one assistant foreman for each fire company, and a delegate from each of said companies. The delegates shall be elected annually from the members in regular standing in each company.

§ 1060. The board of representatives shall hold meetings for the transaction of the business of the department at least once in three months. They shall enact by-laws for the control of the department. They shall fix the number of members of each fire company, both active and honorary. They may disband companies for inefficiency or for good cause upon hearing, after due notice. They shall examine into complaints made against the fire department or against any member thereof, and may prescribe the terms of certificates of membership, subject to law. They shall elect from the active members of the department a treasurer, who shall also act as secretary of the department, who shall give proper bonds to the chief engineer for the performance of his duties and the expenditure of moneys coming under his control, and generally shall have the care and supervision of matters relating to the fire department other than the duties prescribed for the chief engineer.

MEMBERS OF THE FIRE DEPARTMENT.

§ 1061. Any person may become a member of the fire department of Hilo by the affirmative vote of a majority of the members of any fire company to which such person shall have applied: Provided always, That such person shall not be a vagrant or disorderly person, and shall

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not have been convicted of any felony which shall not have been pardoned.

§ 1062. Members of the fire department who shall have been in the active performance of their duties for at least a year preceding the first of July of each year, and shall receive a certificate to that effect, shall be exempt from the payment of poll, school, and road tax in each year. Only such members shall be entitled to vote at elections of the department: And further provided, That no person under eighteen years of age shall be entitled to vote.

§ 1063. There shall be as many companies of firemen as shall from time to time be prescribed by the board of representatives. Each of said companies may choose out of their own number a foreman, assistant foreman, secretary, and treasurer. The last two officers may be combined in one person. Each company shall have power to make, amend, and annul such rules and regulations for their government, not in conflict with law or the by-laws of the department as may be required.

§ 1064. Every fireman shall attend all of the drills and parades as well as the meetings of their respective companies, unless prevented by actual illness or absence from Hilo, and shall be subject to all of the rules of the fire department and of their respective companies.

§ 1065. Each fireman shall promptly respond to an alarm of fire and attend with his company until the foreman or assistant shall order such company to disperse.

§ 1066. At least once in every month the several engines and apparatus shall be practiced and thoroughly cleaned and examined. If any fireman shall neglect to attend at such practice, or shall neglect or refuse to perform any duty in connection therewith, he shall be subject to such penalty as may be prescribed by the rules of the department or of his company.

FIRES.

§ 1067. Upon the occasion of any fire, any person breaking through the limits set by the chief engineer (excepting owners or occupants of buildings in the immediate vicinity of such fire), or interfering with the movements or working of any fire engine or machinery, or maliciously or carelessly running over any line of hose in use at such fire, or in any manner at any time wantonly or intentionally injuring any portion of the fire apparatus, or otherwise interfering with the actions of the department in extinguishing or controlling the same, shall be liable to a fine not exceeding two hundred and fifty dollars.

§ 1086. The chief engineer and the police are authorized to remove or cause to be removed and kept away from the vicinity of the fire, by force if necessary, any idle or suspicious person and all persons not, in their judgment, fit to be employed, or not actually and usefully employed in aiding in the extinguishing or controlling of such fire, or the preservation of property in the vicinity thereof.

§ 1069. The chief engineer and persons acting under his orders shall, for the purpose of saving property and obtaining control of a fire, have the right to enter in and upon premises in the immediate neighborhood of such fire; and any person refusing to allow such access may be forcibly removed.

§ 1070. The engines, carriages, and other apparatus of the fire department shall, in all cases of alarms of fire, have the right of way

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through all streets, alleys, lanes, byways, and highways in the town of Hilo.

§ 1071. The occupants or owners of any building which may be on fire or in danger of fire in which any explosive material or oil shall be stored, shall immediately give notice thereof to the chief engineer of such fact.

§ 1072. In so far as the provisions of sections 1021–1047, relating to the fire department of Honolulu, with regard to the extinguishing of fires or the controlling thereof shall be applicable to the town of Hilo, the same shall be in force and be full authority for the performance of any act therein named for such purposes.

PART III.—INQUESTS OF FIRES.

§ 1073. The chief sheriff of the Territory, or his deputy, or any sheriff, district magistrate, within whose jurisdiction any fire has occurred whereby any house, or other building, or any cane field, land, or forest in such jurisdiction has been wholly or in part consumed, shall inquire into the cause or origin of such fire, and ascertain whether it was kindled by design or resulted from negligence or accident: Provided That no such inquests shall be held in any case unless such officer shall have reasonable grounds to suspect that such fire was the result of culpable negligence, or of design, or occurred under such circumstances that the interest of justice and the protection of property require an investigation.

§ 1074. For the purposes aforesaid any one of the officers hereinbefore mentioned may issue subpœnas for witnesses, returnable forthwith or at such time or place as he shall therein direct.

§ 1075. The said officers may summon and empanel a jury of not less than three nor more than six persons from among the householders or freeholders residing in his district, to hear the evidence which may be adduced touching or concerning such fire, and to render a verdict under oath thereupon, according to the facts.

§ 1076. Minutes of the evidence and of all proceedings, in writing, shall be taken, and a copy thereof certified by the officer before whom the inquiry is held and filed with the attorney-general.

§ 1077. Any person who shall fail to appear after being duly summoned as a juror or witness, and any such witness who may refuse to give his testimony under oath when thereto required, shall be punished, upon conviction before any district magistrate, by a fine of twenty dollars, and in default of payment of such fine shall be imprisoned for twenty days.

PART IV.—FIREPROOF BUILDINGS.

§ 1078. No person shall, within the city of Honolulu, erect, place, or move any building without permission in writing from the superintendent of public works.

§ 1079. The superintendent of public works, upon the approval of himself or such other competent officer as he may appoint for that purpose, shall grant permission to erect, place, or move any building within the city of Honolulu upon the application of any person, firm, or corporation, and upon compliance with the following conditions:

1. That upon filing such application the applicant shall submit the plans and specifications of the building as it is intended to be when so erected, placed, or moved.

2. That upon receipt of such plans and specifications the officer

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receiving the same shall forthwith deliver the same to the fire marshal, who shall inspect and examine the same as to their construction and location, and security and stability, and their security from danger to fire, or destruction or loss from fire, or destruction or danger to life, and also are in conformity with the building and fire laws of the Territory, and also the location thereof; and he shall, if he approves of the same, grant a certificate thereof, but if he disapproves, he shall sign a certificate with the grounds or reasons of disapproval, and in each case shall return the plans and specifications with his certificate to the superintendent of public works or other officer appointed for such purpose, who, after examination as provided in the following section, shall then endorse his approval or disapproval, with reasons or grounds, and submit the same to the superintendent of public works.

3. That if, upon the examination of such plans and specifications, it shall appear to the satisfaction of the superintendent of the public works, or of such architect, builder, or other person as shall be designated by him to examine the same, that the materials of which said building is to be constructed, or to consist when completed, are of sufficient strength and size, and properly placed and fastened, to make the building strong and safe for the uses and purposes for which it is intended, he shall also certify his approval of such plans and specifications.

4. That for the inspection and examination by fire marshal the applicant shall pay a fee of five dollars for the certificate, to be paid into the treasury through the office of the superintendent of public works, as a government realization.

§ 1080. If, upon such examination, the plans and specifications are not approved and the permission is refused, which refusal shall be in writing, stating the reasons therefor, the applicant may ask for a board of arbitration, and appoint one of such board, the superintendent of public works shall appoint another of such board, and the two so appointed shall select the third member thereof. The plans and specifications shall be submitted to and examined by them. A decision agreed to by two members of the board shall be final as to whether the permission sought shall be granted.

§ 1081. The provisions of sections 1078–1085 shall also apply to the erection, moving, or placing of all buildings hereafter to be erected anywhere within the Territory to be used as churches, schoolhouses, court-houses, hotels, or other places of assembly.

§ 1082. The provisions of sections 1078–1085 shall not apply to any building to cost less than one thousand dollars which may be erected, moved, or placed in the city of Honolulu outside or beyond the following limit or boundary; that is, outside or beyond all the space within a circle whose center is the present site of the bell tower of the Honolulu fire department and whose radius is one mile.

§ 1083. Any person who shall erect, move, or place any building in violation of the provisions of sections 1078–1085 shall be liable to a penalty of one hundred dollars. And the superintendent of public works may, in his discretion, order the said building to be taken down or properly strengthened, and upon service of a copy of said order the said building shall be taken down or strengthened as directed, and the owner or builder thereof shall be liable to a penalty of twenty-five dollars for every week or part of a week during which the order is not complied with, after the expiration of one week from the date of receiving such order.

§ 1084. For the purposes of this act the city of Honolulu shall com-

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prise that portion of the Honolulu district in the Island of Oahu within the following limits:

The Kalihi stream on the west, the Manoa or Kalia stream on the east, the sea in front, and mauka a distance of three miles inland from the sea.

§ 1085. The several district magistrates throughout the Territory shall have jurisdiction to hear and determine complaints for the violation of any of the provisions of sections 1078–1085 and to impose any of the penalties herein prescribed.

Part V.—Buildings Within Fire Limits.

§ 1086. The word "building" when used in sections 1086–1089 shall mean and comprise any dwelling house, shop, store, warehouse, church, chapel, concert room, hospital, theater, manufactory, workshop, stable, privy, or other building or erection whatsoever, and the words "hereafter to be built" shall apply to all buildings commenced after sections 1086–1089 shall come into operation, or which, if commenced before sections 1086–1089 shall come into operation, shall not be covered in within one month thereafter.

§ 1087. Any building hereafter to be built in the city of Honolulu within the limits specified in the schedule hereto (except such sheds as may be erected by the Government on the wharf frontage for wharf accommodation) shall have the external walls and roof thereof constructed of brick, stone, concrete, iron, or other fireproof material: Provided, That if iron be used the framework shall also be constructed of iron.

§ 1088. Any person who shall violate the provisions of sections 1086–1089 by constructing any building except of such materials as are mentioned in section 1087 shall be deemed guilty of the offense of common nuisance, and may be proceeded against accordingly. And it shall be the duty of the fire marshal to inspect all buildings which shall hereafter be erected within the limits provided by sections 1086–1089, and report to the superintendent of public works any violations of the provisions of sections 1086–1089. And it shall be the duty of the superintendent of public works to cause prosecutions to be entered against all offenders under sections 1086–1089.

Schedule before referred to.

§ 1089. All those parts of the city of Honolulu bounded by the water front and by a line running from the said water front and eighty feet westerly from the building line on the Ewa side of Nuuanu street to the makai side of King street, thence running along King street to a point eighty feet distant easterly from the Waikiki side of Fort street, and thence running eighty feet from the Waikiki side of Fort street to the water front; and also all those parts of the city of Honolulu comprising the lands now reclaimed or which may hereafter be reclaimed from the land of Waikahalulu makai of Queen street.

§ 1090. That part of the city of Honolulu which is bounded as follows, to wit:

By the water front; thence along a line eighty feet westerly and parallel with the westerly line of Maunakea street to a point eighty feet makai of King street; thence westerly along a line eighty feet makai and parallel with said King street to River street; thence along River street to a point eighty feet mauka of King street; thence

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easterly along a line eighty feet mauka and parallel with said King street to a point eighty feet to the westerly or Ewa side of Konia (formerly Smith) street; thence along a line eighty feet westerly and parallel with said Konia street to a point eighty feet mauka of Hotel street; thence easterly along a line eighty feet mauka and parallel with said Hotel street to a point eighty feet to the westerly side of Nuuanu street; thence along a line eighty feet westerly and parallel with said Nuuanu street to a point eighty feet mauka of Beretania street; thence easterly along a line eighty feet mauka and parallel with said Beretania street to a point eighty feet easterly of the easterly line of Fort street; thence along a line eighty feet easterly and parallel with said Fort street to a point eighty feet mauka of Hotel street; thence easterly along a line eighty feet mauka and parallel with the said Hotel street to a point eighty feet easterly of the easterly line of Alakea street; thence along a line eighty feet easterly and parallel with said Alakea street to the water front, including all the land now or hereafter to be reclaimed within the said limit, shall be known as the fire limits of Honolulu.

§ 1091. Every building or structure, except water-closets or privies, hereafter built within the fire limits of Honolulu shall have the external walls thereof constructed of brick, stone, concrete, iron, or other approved fireproof material: Provided, That if iron the framework shall also be of iron, and that rafters and roof timbers, if covered with approved fireproof material, may be of wood. The interior of fireproof buildings shall be ceiled with fireproof material or lathed and plastered: Provided, however, That overhead ceiling may be made of selected tongued and grooved Northwest lumber: And further provided, That the external walls of any building adjacent to or facing the street shall not be covered with corrugated iron roofing or sheet iron or tin; all buildings and structures to be built within said fire limits shall be subject to the inspection and approval, as to location, plans, architecture, materials, and construction, from design to finish, of a commission consisting of the superintendent of public works and the chief engineer of the fire department, and no person shall erect any building or structure within said fire limits without permission in writing from said commission. It shall also be the duty of the chief engineer of the fire department to inspect all buildings and structures hereafter built within the fire limits of Honolulu, to see that the permits granted by the commission are complied with according to law, and to make report to the commission.

The provisions of sections 1090–1097 shall not apply to such sheds as have been or may be hereafter erected by the Hawaiian government on the wharf frontage for wharf accommodation.

§ 1092. No wooden building or structure now erected within the fire limits of Honolulu shall be altered, repaired, or changed without permission in writing signed by the superintendent of public works, which permit shall only be granted upon an application in writing, accompanied by particulars sufficient to indicate the nature and extent of alterations, repairs, and changes contemplated; and no such permission shall be granted when such alteration, repair, or change amounts to a renewal of one-third or more of the original structure, and such permission shall become void unless the work for which it is issued is begun within ten days and completed within ninety days after the date of said permission.

§ 1093. No person owning or occupying any building fronting on any street, lane, alley, or place within the fire limits of Honolulu shall

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construct, or cause to be constructed or maintained, any awning, shade, or balcony except in accordance with the following provisions: Such awning, shade, or balcony should be securely supported on wrought-iron brackets built into the walls, and shall be supported without posts, and shall be not less than eleven feet above the line of the curb levels of the sidewalk, and shall have a gutter formed to carry off the water to the line of the building and from thence to the street gutter: Provided, That no gutters will be required to be constructed on cloth or canvas awnings or shades: Also provided, That the height of all movable canvas or cloth awnings or shades hereafter constructed shall not be less than seven and a half feet above the line of the curb level or the sidewalk. No awning, shade, or balcony shall extend beyond the line of the curb. No awning, shade, or balcony shall be inclosed to a greater height than three feet six inches: Provided, That no awning, shade, or balcony shall be erected on any building facing on any streets, lane, alley, or place which is thirty feet or less in width; and no awning, shade, or balcony shall be constructed on the sides or rear of any building within the fire limits unless there is a clear space of not less than thirty feet between such building and the adjacent buildings, and then they shall be constructed of fireproof materials. No signs shall placed on the front, rear, or sides of any building higher than its blocking course or fire wall, and no sign made of wood, canvas, or cloth shall exceed three feet in height. All signs must be securely bolted to the building upon which they are placed. No framework shall be placed above the roof of any building and covered with inflammable material for signs or any other purposes.

§ 1094. No cornice, entablatures, belt courses, or other ornamental projections of wood shall be placed on any fireproof building within the fire limits of Honolulu. All exterior cornices, entablatures, belt courses, and other projections of an ornamental character shall be constructed of some fireproof material; if of iron, to be riveted together with rivets not more than 2 inches apart, and shall be supported on wrought-iron brackets built into the wall at distances not to exceed 2 feet apart; and in every instance the greatest weight of stone, iron, or other material of which they shall be composed shall be on the inside of the outer line of the wall on which they may rest in the proportion of 4 of wall to 2 of cornice in weight; allowance must be made for the excess of leverage produced by the projection of cornice beyond the face of the wall; all cornices shall be well secured to the wall with iron anchors, independent of any woodwork, and in all cases the walls shall be carried up to the planking of the roof; and when the roof is below the cornice, then the wall shall be carried up to the top of the cornice, or the blocking over the same, and shall be coped with some fireproof material. All wooden cornices or gutters on fireproof buildings that are now or may hereafter become unsafe shall be taken down and reconstructed of some fireproof material, upon an order from the superintendent of public works.

§ 1095. All openings in party or rear walls must be protected by iron or iron-covered shutters, to be approved by the superintendent of public works; and all party and rear walls of any building fifteen feet or more in height shall be built up and extend at least thirty inches above every point where the roof meets the wall, and such wall shall be not less than twelve inches in thickness. Detached buildings having a frontage on all sides and constructed with the exterior entirely of fireproof materials need have no wall above the

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roof line, but the walls will extend up behind the cornice to the planking of the roof.

§ 1096. Any person violating any of the provisions of sections 1090–1097 shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine not more than five hundred dollars; the continuance or maintaining of such violation after conviction shall be deemed a new offense for each day on which the same is so continued or maintained, and shall be punished accordingly.

§ 1097. It shall be the duty of the fire marshal of Honolulu, the chief sheriff of the Territory, his deputy, or any police officer to report any infringement of the provisions of sections 1090–1097 to the superintendent of public works, who shall immediately take necessary steps for the prosecution of the offender.

§ 1098. Whenever the provisions of sections 1090 to 1097 are violated, the district magistrate of the district of Kona, island of Oahu, shall have jurisdiction to hear and determine such cases.

NOTE TO CHAPTER 63.

PART I.

§§ 1021–1047 are P. G., act 17.
§§ 1048–1051 are S. L. 1892, ch. 62.

PART II.

§§ 1052–1072 are S. L. 1892, ch. 86.

PART III.

§§ 1073–1077 are S. L. 1886, ch. 10.

PART IV.

§§ 1078–1085 are S. L. 1886, ch. 16, amended as follows: §§ 1079 and 1082 by 1890, ch. 72.

PART V.

§§ 1086–1087 are S. L. 1882, ch. 22; C. L., p. 667.
§§ 1088–1089 are S. L. 1884, ch. 13.
§§ 1090–1097 are S. L. 1886, ch. 2, amended as follows: §§ 1090–1091 by S. L. 1896, act 31; § 1095 by S. L. 1892, ch. 42.
§ 1098 is S. L. 1886, ch. 5.
Cases in Hawaiian Reports: McGuire v. Tong Wo, 5 Haw., 41; Rex v. Tong Wo, 5 Haw., 20; Thomas v. Norton, 8 Haw., 68.

CHAPTER 64.

GUNPOWDER.

§ 1099. The governor may make such regulations for the storing, keeping, and transportation of gunpowder in any town of the Territory as he may think the public safety requires, and no person shall store, keep, or transport any gunpowder in any other quantity or manner than is prescribed in such regulations.

§ 1100. Whoever shall violate any of such regulations shall be fined for each offense not less than twenty nor more than one hundred dollars.

§ 1101. All gunpowder introduced into or kept in any town contrary to said regulations may be seized by any sheriff or any other officer of police, and the same shall be forfeited for the benefit of the public treasury.

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§ 1102. Any person injured by the explosion of any gunpowder in the possession of any person contrary to the regulations prescribed by the governor, may have an action for damages against the person having custody or possession of the same, at the time of the explosion, or against the owner of the same, if cognizant of such neglect.

§ 1103. All sheriffs and other officers of police shall have authority to enter any building or place to search for gunpowder supposed to be concealed there contrary to law, and any district magistrate may grant a search warrant for that purpose.

§ 1104. No regulations for the safe-keeping of gunpowder shall take effect until they have been published three weeks successively in some newspaper in the town, or by posting up attested copies in three places in such town.

§ 1105. The importation into the Hawaiian Islands of firearms, ammunition, dynamite, giant powder, and similar explosive substances, except by the Government, is hereby prohibited: Provided, however, That the governor may, upon application, allow the importation of such goods at their discretion, subject to the legal duties thereon.

NOTE TO CHAPTER 64.

§§ 1099-1104 are P. C., ch. 64, §§ 1-6.
§ 1105 is P. G., act 9.

CHAPTER 65.

PUBLIC MARKETS.

§ 1106. The superintendent of public works, under the direction of the governor, is hereby charged with the designation of suitable places to be used as public markets and with the construction, repair, and regulation of all such markets.

§ 1107. Said superintendent, with the approval of the governor, may appoint a clerk of the markets of Honolulu, and also clerks of the markets of other places, whenever the public good may require the same.

§ 1108. Every clerk of the market thus appointed shall, before entering upon the duties of his office, execute a bond in the penal sum of one thousand dollars, with sufficient surety or sureties, to be approved by the superintendent of public works, payable to said superintendent for the use of the public exchequer, and conditioned for the faithful performance of his official duties.

§ 1109. Every clerk of a market shall faithfully collect the market fees and fines, as they may be prescribed, from time to time, by the superintendent of public works, with the approval of the governor, keeping an account of the same in a suitable book or books, and shall quarterly render a true and faithful account of all moneys received by him in virtue of his office, and pay the same over to said superintendent.

§ 1110. It shall be the duty of every clerk of a market to designate and declare to what uses and purposes the stalls and stands of said market shall be appropriated, and from time to time to lease the same by auction or otherwise, as the superintendent of public works may direct. The rents of all markets shall be paid in advance and shall be collected and accounted for by the respective clerks.

§ 1111. It shall be the duty of every clerk of a market to cause all dirt and filth which may accumulate in said market to be removed daily, and in all other respects to keep said market in a pure, clean,

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and healthy condition. To enable him to do this he shall have the power to prescribe such rules and regulations for the observance of those occupying stalls and stands in the market as may be necessary to keep the same pure and clean and as the superintendent of public works may approve.

§ 1112. It shall be the duty of every clerk of a market once in every month, and whenever requested so to do by any purchaser in said market, to inspect all the weights, measures, and beams used in weighing and measuring in such market, and at the expense of the owners to make them conform to the standard weights and measures of the Territory; and if any person shall refuse to exhibit his weights and measures, or to make them conform to those established by law, he shall be fined twenty-five dollars.

§ 1113. Any person using any weights or measures in a public market, not approved by the clerk of such market, shall be fined ten dollars, and he shall besides be liable in tenfold damages to any person injured by his conduct.

§ 1114. Every day in the week except Sunday shall be a public market day, and it shall be the duty of every clerk of a market to attend such market on market days, and to enforce the laws and regulations applicable to the same.

§ 1115. The public markets shall be opened upon every market day from the hour of five o'clock in the morning until seven o'clock in the evening, and no longer, except on Saturday, when they shall be kept open until ten o'clock in the evening.

§ 1116. Every person who shall violate any of the rules and regulations prescribed for the government of any public market or markets, or who shall stand or occupy for the sale or vending of any poi, fish, crawfish, oysters, or shellfish, or any kind of fruit or vegetables, in any street in the city of Honolulu, shall be fined one dollar for such offense, and it shall be the duty of the clerk of the market to prosecute all such offenders: Provided, however, That the fines mentioned in this section shall not be imposed until such time as suitable markets and conveniences are set apart for the public use by the superintendent of public works.

§ 1117. The salaries of all clerks of markets shall be fixed by the superintendent of public works, with the approval of the governor.

Weights and Measures.

§ 1118. It shall be the duty of the superintendent of public works to procure a standard set of weights and measures; and he shall annually (or oftener in his discretion) cause all beams, weights, and measures in this Territory used by persons selling any goods, wares, merchandise, fruits, vegetables, or other commodity to be tested at the place where used, by such standard weights or measures, and to seal such as shall be found true with the capital letters R. H. He shall in like manner cause to be tested all beams, weights, and measures which shall be brought to him to be tested.

§ 1120. The charge for testing any beam, weights, or measure shall be as follows: For sealing and marking every beam, fifty cents; for sealing and marking every measure of extension, twenty-five cents; for sealing and marking every weight, ten cents; for sealing and marking every liquid or dry measure, ten cents; and a reasonable compensation for making such weights and measures conform to the standard.

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Provided, however, That no charge shall be made for more than two inspections of the same beam, weight, or measure in one year. All fees collected under this section shall be paid into the treasury as government realizations.

§ 1121. The standards of weights and measures shall be those adopted and now used, or that may be adopted and used, by the United States of America.

§ 1122. Whenever any wheat, rye, Indian corn, barley, or oats shall be sold by the bushel, and no special agreement as to the measurement shall be made by the parties, the bushel shall consist of sixty pounds of wheat, of fifty-six pounds of rye, of fifty-six pounds of Indian corn, of forty-eight pounds of barley, and thirty-two pounds of oats.

§ 1122A. Any person who shall wilfully and fraudulently change any beam, weight, or measure after the same shall have been tested and sealed shall be liable on conviction in any district court to pay a fine not to exceed fifty dollars for each such offense.

§ 1123. If any person shall sell any goods, wares, or merchandise, fruit, vegetables, or other commodity whatsoever by any beams, weights, or measures that have not been duly sealed, he shall be fined for each offense a sum not exceeding fifty dollars; and any person who shall be injured or defrauded by the use of any such beams, weights, or measures may maintain an action against the offender; and if judgment be rendered for the plaintiff he shall recover double damages and the costs of suit.

NOTE TO CHAPTER 65.

§§ 1106, 1117, 1121, 1122, 1123 are P. ,C ch. 65.
§§ 1118, 1120, 1122A are S. L. 1898, act 51.

CHAPTER 66.

PORT REGULATIONS.

§ 1124. All vessels that may enter any port shall be anchored in the place designated by the harbor master, and moved from one anchorage to another, as he may direct; and no vessel, excepting coasting vessels under fifty tons burthen, and vessels about to leave the harbor, shall quit her anchorage or moorings until the commanding officer shall have received the written permission of the harbor master, under penalty of a fine not exceeding one hundred dollars.

§ 1125. The harbor master or any pilot, while removing a vessel from one anchorage or mooring to another, may make fast to any other vessel, or to any warp, or wharf; and any person resisting the same, cutting away, or casting off the warp or fastening shall be subject to a fine not exceeding one hundred dollars; and if such person belong to any vessel the master of such vessel shall be responsible for any damages resulting from such resistance, cutting away, or casting off, as well as the fine imposed upon the offender.

§ 1126. In order to facilitate the removing and placing of vessels in their proper berths, all vessels in the harbor shall, when requested by the harbor master or any pilot, slack down their stream cables and other fastenings, and also their bower chains, under penalty of a fine not exceeding one hundred dollars.

§ 1127. All vessels entering port shall, if so requested by the harbor master or any pilot, rig in their jib, flying jib, and spanker booms, and

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spritsail yards, and top their lower and topsail yards within twenty-four hours after anchoring in such port; and in all cases before attempting to come alongside of or make fast to either of the docks or wharves, and keep them so rigged in and topped until within twenty-four hours before leaving the harbor, and until after removing from any wharf or dock, under the penalty of a fine not exceeding one hundred dollars.

§ 1128. All vessels anchoring outside the reef at Honolulu shall, when so requested by the harbor master or any pilot, change their anchorage and anchor in such place as he may direct, under penalty of a fine not exceeding one hundred dollars.

§ 1129. No combustible materials, such as pitch, tar, resin, or oil, shall be heated on board of any vessel within the harbor of Honolulu, but all such combustible articles shall be heated either on shore, or in a boat, or on a raft, at a reasonable distance from the vessel, of which distance the harbor master shall be the judge. Every person violating the provisions of this section shall be liable to a fine not exceeding one hundred dollars.

§ 1130. No stones or other rubbish shall be thrown from any vessel into the harbor of Honolulu or Hilo, under penalty of a fine not exceeding one hundred dollars, and the master of any vessel from which stones or rubbish are thrown shall be subject to a like fine.

§ 1131. Any person who shall throw, or cause to be thrown, or leave or cause to be left, for the space of six hours, upon the shores or reefs of any harbor in this Territory, any dead animal, shall be subject to a fine not exceeding one hundred dollars, and shall cause the same to be removed without delay.

§ 1132. Every vessel taking on board or discharging any ballast or coals within the harbor of Honolulu shall have a tarpaulin properly stretched and spread so as to prevent any from falling into the water, under penalty of a fine not exceeding one hundred dollars.

§ 1133. If any person commit any offense on shore, and the offender escape on board any vessel, it shall be the duty of the commanding officer of said vessel to surrender such offender to any officer of the police who may demand his surrender, either with or without a warrant, on production of his commission or appointment; and if such commanding officer shall refuse to surrender such offender, he shall be subject to a fine of not less than fifty nor more than one thousand dollars.

§ 1134. If the commanding officer of any vessel shall secrete or allow to be secreted on board such vessel any prisoner amenable to or convicted under the laws of this Territory, or convey him out of the jurisdiction of the Hawaiian Islands, he shall be subject to a fine of not less than fifty nor more than one thousand dollars; and the vessel in which such prisoner shall be conveyed shall be liable to a like fine, for the payment of which she may be seized, condemned, and sold.

§ 1135. It shall be lawful for the chief sheriff, any sheriff, or other police officer to search any vessel for deserters, criminals, or other offenders or debtors, without a warrant, on producing to the commanding officer of the vessel his commission or appointment as chief sheriff, sheriff, or police officer; and the commanding officer of a vessel who shall refuse any chief sheriff, sheriff, or other police officer access to the vessel or any part thereof shall be subject to a fine not less than ten dollars nor more than one thousand dollars, in the discretion of the court; and such vessel shall not be entitled to a clearance until

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the fine is paid and the search allowed; provided, however, that the provisions of this section shall not be construed to interfere with the jurisdiction of foreign consuls under existing treaty stipulations.

§ 1136. Nothing contained within the last three preceding sections shall be so construed as to apply to ships of war or other vessels commanded by officers bearing the commissions of foreign states and not subject to search by the law and usage of nations.

[§ 1137.]

NOTE TO CHAPTER 66.

§§ 1124–1137 are P. C., ch. 66, §§ 1–14.
P. C., §§ 15–16, repealed by S. L. 1888, ch. 57.

[*CHAPTER 67.*]

[§§ 1138–1144.]

CHAPTER 68.

[§§ 1145–1179.]

HARBOR MASTERS.

§ 1180. The superintendent of public works shall appoint a harbor master for such of the ports of entry for merchant vessels as he may deem necessary, who shall hold office during his pleasure, and who, before entering upon the duties of his office, shall give a bond to him in the penal sum of at least one thousand dollars, with sureties to be approved by him, conditioned that he will faithfully and honestly discharge the duties of harbor master and account for and pay over to him all moneys received by him as required by law.

§ 1181. It shall be the duty of the harbor master of Honolulu and Hilo to board all vessels arriving from foreign ports, as soon as possible after they shall have entered the harbor, to direct them where and how to moor or make fast, to change their anchorage or moorings from time to time as circumstances may require, and to see that the commanding officer has the printed port regulations. He shall also be wharfinger at the port for which he is appointed.

§ 1182. The harbor master of Honolulu and of Hilo shall also have authority over the anchoring, mooring, and making fast of all hulks, coasters, boats, and other craft in the harbor; and he is charged in general with the enforcement of all harbor regulations.

§ 1183. The harbor master of Honolulu shall not act as a pilot of the port.

§ 1184. The harbor master at the respective ports is charged with the granting of permits for the discharge and residence on shore of foreign seamen, as prescribed by law; and it shall be his duty to notify the chief of police of the port on the expiration of every such permit.

§ 1185. The harbor master of Honolulu, and also of Hilo, shall be entitled to collect and receive from every vessel, except vessels engaged in the coasting trade, boarded by him, or to which he renders assistance or service, the sum of three dollars, in addition to his disbursements for the use of boats and warps, and for labor in mooring or making fast such vessels; and if necessarily detained on board more than two hours at any one time, he shall be paid at the rate of one dollar per hour for such extra detention; and for each time that he may be called upon to board, or that it may be necessary for him to

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board, any such vessel, after having once moored her properly, he shall be entitled to receive the same pay as in the first instance.

§ 1186. The compensation of the harbor masters of other ports shall be such reasonable sum as may be determined by the superintendent of public works: Provided, That it shall be at his option to refuse any compensation in cases where they shall deem it unnecessary.

§ 1187. The harbor masters shall receive for their services as wharfingers such a reasonable percentage of the receipts from wharfage as may be determined by the superintendent of public works, not to exceed ten per cent.

§ 1188. It shall be the duty of the several harbor masters to make a quarterly report of the transactions of their offices, together with the amount of compensation received by them, to the superintendent of public works.

Pilots and Boarding Officers.

§ 1189. The superintendent of public works shall appoint and commission three pilots for the port of Honolulu. Such pilots may be removed or suspended by the superintendent for misconduct, carelessness, or neglect of duty, or other satisfactory cause. The superintendent may appoint deputies or substitutes of any such pilots in case of sickness or temporary absence.

§ 1190. Each pilot, before appointment, shall be examined as to his fitness to act as pilot, and the superintendent of public works shall make rules and regulations for such examination.

§ 1191. The superintendent of public works shall appoint one or more pilots for each of the ports of Hilo and Hanalei, to hold office during the pleasure of said superintendent. Said pilots, in case of sickness or temporary absence, may, with the approval of the superintendent, appoint deputies to act in their behalf, for whose conduct they shall be responsible.

§ 1192. Each of the pilots for Honolulu shall give a bond to the superintendent of public works, with sureties, to be approved by said superintendent, in the penal sum of five thousand dollars; and the pilots for other ports shall give a like bond, in the penal sum of one thousand dollars, which bond shall be conditioned that the pilot shall faithfully perform all the duties imposed on him by law, that he will not countenance any evasion or infraction of the revenue laws, and that he will continually hold himself in readiness to conduct vessels safely into and out of the port for which he is appointed.

§ 1193. In case of a breach of the conditions of any such bond, the superintendent, or any person injured thereby, may institute a suit upon such bond before any judge of a court of record, and thereupon recover such damages as shall be assessed, with costs of suit, for which execution may issue in favor of such person; and in case the party prosecuting shall fail to recover in the suit, judgment may be rendered, and execution may issue for costs in favor of the defendant against the party who shall have instituted the suit. Every suit on any such bond shall be commenced within one year after the right of action shall have accrued, and not afterwards.

§ 1194. Upon the arrival of any vessel making the usual marine signal for a pilot, it shall be the duty of the pilot or pilots at the port to immediately put off to such vessel, taking with him a white and a yellow flag, to enquire into the sanitary condition of the ship and the health of those on board; and upon being assured to his satisfac-

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tion that there is no danger to be apprehended from any contagious disease, he shall board such vessel, but not otherwise.

§ 1195. Upon boarding the vessel the pilot shall present the commanding officer with a health certificate, to be signed by him, and in case the same shall be signed the white flag shall be immediately hoisted at the main, and the pilot shall be at liberty to bring the vessel into port; but in case the commanding officer shall decline to sign the certificate of health, the pilot shall deliver him a yellow flag, which the master shall hoist at the main, and the vessel shall be placed in quarantine outside of the harbor and anchored where the pilot may direct. Any pilot who shall conduct a vessel into any port in this Territory in violation of the provisions of this section or any of the regulations of the board of health, or knowing that there is just ground to suspect the existence of contagion on board, shall be liable to a fine not exceeding five hundred dollars, and every vessel the master of which shall have declined to sign a certificate of health as above prescribed shall, upon entering port, be liable to seizure, confiscation, and sale.

§ 1196. If the pilot, after boarding any vessel, shall discover the existence of a contagious disease, he shall not return on shore; neither shall it be lawful for any of the ship's company or passengers to land or communicate with the shore, or board any other vessel, without permission of the board of health or the superintendent of public works, under a penalty of a fine not exceeding five hundred dollars.

§ 1197. The pilots of Honolulu shall bring the vessel which they may take charge of fully within the harbor (within the inner buoy unless otherwise directed by the harbor master) and anchor her in a suitable and convenient place, under penalty of forfeiting their commissions.

§ 1198. No pilot shall take out any vessel that may be under attachment or arrest by virtue of any process, nor before she has obtained her clearance, under penalty of forfeiting his commission and paying a fine not exceeding one thousand dollars.

§ 1199. The compensation of the pilots shall be as follows: One dollar per foot upon the vessel's draft coming into port, and the same going out of port.

§ 1200. The compensation of pilots for the port of Honolulu shall be such as shall be fixed and appropriated by the legislature.

§ 1201. The fees and charges for pilotage of the port of Honolulu shall be as follows: For coming into port, and also going out, for all mail steamers of one thousand tons register or upwards, fifty dollars; for transient steamers of one thousand tons and upwards, seventy-five dollars; for all vessels of war, two dollars per foot on draught of water; for all sailing vessels under two hundred tons register, one dollar and a half per foot; all other vessels and steamers, five cents per ton; for anchoring vessels outside, twenty dollars. If brought into harbor, this charge shall be reduced to ten dollars. For any detention on board a vessel for more than twenty-four hours the compensation shall be seven dollars per day. All receipts for fees and charges for pilotage at the port of Honolulu shall be paid to the superintendent for the use of the government of Hawaii.

§ 1202. The compensation of the pilots at the ports of Kahului, Maui, and Hilo, Hawaii, shall be as follows: One dollar and fifty cents per foot on the vessel's draft coming into port, and the same for going out of port. For anchoring any vessel off the said ports of Kahului and Hilo, ten dollars; provided that the pilot be not detained on board

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longer than twenty-four hours, and for all detention on board beyond that time, five dollars per day.

§ 1203. If any foreign vessel, or Hawaiian vessel engaged in foreign trade, shall enter or depart from any of the ports for which pilots may be appointed without a pilot, such vessel shall be liable to one-half pilotage.

[§§ 1204–1209.]

NOTE TO CHAPTER 68.

§§ 1145–1150 are P. C., ch. 68, §§ 1–6.
§ 1151 is S. L. 1874, ch. 35; C. L., p. 157.
§ 1152 is P. C., ch. 68, § 7.
§ 1153 is S. L. 1884, ch. 15.
§ 1154 is S. L. 1870, ch. 12; C. L., p. 157.
§ 1155 is P. C., ch. 68, § 9.
§§ 1156–1157 are S. L. 1864; C. L., p. 519.
§ 1158 is S. L. 1874, ch. 20; C. L., p. 519.
§§ 1159–1171 are P. C., ch. 68, §§ 10–22.
§ 1172 is P. C., ch. 68, § 23, amended by S. L. 1874, ch. 16; C. L., p. 164.
§§ 1173–1188 are P. C., ch. 68, §§ 24–39.
§§ 1189–1190 are S. L. 1892, ch. 49.
§§ 1191–1196 are P. C., ch. 68, §§ 40–45.
§ 1197 is C. L., § 597.
§ 1198 is P. C., ch. 68, § 46.
§ 1199 is part of P., ch. 68, § 47, the remainder being superseded by S. L. 1892, ch. 49.
§§ 1200–1201 are S. L. 1892, ch. 49.
§ 1202 is S. L. 1880, ch. 4; C. L., p. 171.
§ 1203 is P. C., ch. 68, § 48.

Cases in Hawaiian Reports: R. v. Aho, 5 Haw., 565; Cleghorn v. Samshoo, 7 Haw., 189; Republic v. Hoffschlaeger, 10 Haw., 481.

[*CHAPTER 69.*]

[§§ 1210–1212.]

[*CHAPTER 70.*]

[§§ 1213–1258.]

[*CHAPTER 71.*]

[§§ 1259–1293.]

[*CHAPTER 72.*]

[§§ 1294–1306.]

[*CHAPTER 73.*]

[§§ 1307–1308.]

[*CHAPTER 74.*]

[§§ 1309–1319.]

[*CHAPTER 75.*]

[§§ 1320–1332.]

[*CHAPTER 76.*]

[§ 1333.]

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CHAPTER 77.

OFFENSES AGAINST SUNDRY DEPARTMENTS OF THE GOVERNMENT.

PART I.—NOTARIES PUBLIC AND OFFICERS TO TAKE ACKNOWLEDGMENTS.

§ 1334. On the resignation, removal from office, or death of any notary public, his records shall be deposited with the clerk of the nearest court of record to the place where his office was situated; and by a neglect for three months to comply with the above requisition, such notary, his executor or administrator, shall forfeit not less than fifty, nor more than five hundred dollars, in the discretion of the court. All forfeitures under this section shall be one-half to the government, and the other half to him who shall sue for the same.

§ 1335. All judges and other officers now, or who may hereafter be authorized by law to take acknowledgments to instruments, besides the certificate of acknowledgment indorsed upon the instrument, shall keep a record of every acknowledgment in a book of records. Each record shall at least set forth the date of acknowledgment, the parties to the instrument, the persons acknowledging, the date, and some memorandum as to the nature of the instrument acknowledged.

§ 1336. The books of record so kept shall every five years, and upon the resignation, death, or removal from office of such judge or other officer, be deposited with the clerk of the court of record nearest the place where such judge or other officer resided.

§ 1337. The clerks of the several courts of record shall carefully preserve the books of record deposited with them as provided herein, filing the same with the records of the court. Such records, both while in the custody of such acknowledging officers and after such filing, shall be open at all reasonable times to the inspection of any responsible person, without fee or reward.

§ 1338. Any of the officers to take acknowledgments aforesaid, who shall fail to keep the record herein directed, or upon failure to deposit the same with a clerk of a court of record as directed, shall be liable to pay a fine of not less than fifty dollars nor more than two hundred and fifty dollars, which may be recovered of such officer, his executors, or administrators before any district magistrate. The first period of five years contemplated by sections 1335–1388 shall expire July 1st, A. D. 1893.

§ 1339. It shall be the duty of every notary public or the officer authorized to take acknowledgments to instruments, before taking any acknowledgment, to first carefully inspect any instrument proposed to be acknowledged before him, and ascertain whether there are any interlineations, erasures, or changes in such instrument.

If there are any such interlineations, erasures, or changes, he shall call the attention thereto of the person offering to acknowledge such instrument, and if they are approved by such person, the said acknowledging officer shall place his initials in the margin of said instrument opposite each such interlineation, erasure, or change, and shall note at the foot of the instrument before the acknowledging clause what each such interlineation, erasure, or change consists of, and the number of the page and line on which it occurs.

§ 1340. Every notary public or other person authorized to take acknowledgments to instruments, who shall take the acknowledgment of any person to any instrument in which there are interlineations, erasures, or changes, and who shall fail to observe or perform

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the requirements, or any of them, of the last preceding section, shall be liable, upon conviction thereof before any district court, to a fine not to exceed the sum of two hundred dollars.

§ 1341. Any officer authorized to take acknowledgments to instruments who shall knowingly incorporate in the certificate of acknowledgment any false or misleading statement as to the facts therein contained, shall, on due proof thereof before any district magistrate, be punished by fine not to exceed one hundred dollars, or by imprisonment at hard labor not to exceed two months, or both. Nothing herein contained shall be construed to do away with the liability for civil damages for such act.

Part II.—Marriage Records.

§ 1342. It shall be the duty of every person authorized to solemnize marriage within this Territory to make and preserve a record of every marriage by him solemnized, comprising the names of the man and woman married, their place of residence, and the date of their marriage, and to deliver a certificate of such marriage, signed by him, to the parties married.

§ 1343. Every person authorized to solemnize a marriage, who shall neglect to keep a record of any marriage by him solemnized, or to deliver a certificate thereof to the parties married, shall be subject, upon due proof of such neglect before any district magistrate, to a fine of fifty dollars.

§ 1344. It shall be the duty of every person authorized to solemnize marriage to deliver to any person requesting the same a written certificate of any marriage by him solemnized, upon being paid or tendered the sum of fifty cents.

Any person authorized to solemnize marriage who shall refuse, upon being paid or tendered the sum of fifty cents, to deliver to any person requesting the same a certificate of any marriage by him solemnized shall, upon due proof of such refusal before any district magistrate, be subject to a fine of fifty dollars.

§ 1345. Upon the death or departure from the country of any person authorized to solemnize marriage, it shall be the duty of his executor, administrator, or other legal representative to deliver the records of marriages kept by such authorized person to the treasurer, under a penalty, upon due proof of neglect to make such delivery before any district magistrate, of a fine of one hundred dollars.

§ 1346. It shall be the duty of the chief clerk of the treasury, upon being paid or tendered the sum of fifty cents, to deliver to any person requesting the same a certified copy of any entry found in any record of marriages deposited in said department, under the hand of said clerk and the seal of the department.

[Part III.]

[§§ 1347–1348.]

Part IV.—Evasion of Stamp Duties.

§ 1349. No officer of any body corporate shall issue or deliver any certificate of the ownership of stock in or of such corporation, nor note the sale or transfer of any share or shares of stock in such corporation upon the stock book of such corporation, except such new certificates, or the certificate so transferred, shall have affixed thereto stamps of the

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value of twenty cents for each one hundred dollars or fraction thereof of the par value of the shares of stock represented or certified by such certificate, which stamps shall be paid for by the person to whom such certificate shall be issued and delivered or by the person who requests the noting of such sale or transfer of stock in the stock book of the corporation: Provided, however, That the stamp duty above provided for shall not be held to apply to certificates issued to the owner of the shares represented by such certificates in cases where there is no change of ownership of such shares, and that in case of reissue to a former owner the officer of the company issuing the stock shall note on the certificate the word "reissue" and sign the same. And it shall be the duty of the officer making the annual exhibit of such body corporate to the treasurer to include therein a sworn statement of the number and par value of the shares of the stock thereof, certificates for which have been issued or delivered, or the sale or transfer thereof noted in the stock book of the corporation during the period covered by such exhibit. Any person who shall violate any of the provisions of this section shall be subject to a fine of not less than fifty nor more than two hundred and fifty dollars, upon conviction thereof before any magistrate.

NOTE TO CHAPTER 77.

PART I.

§ 1334 is P. C., ch. 77; §§ 1-2.
§§ 1335-1338 are S. L. 1888, ch. 18.
§§ 1339, 1340 are S. L. 1896, act 55.
§ 1341 is S. L. 1882, ch. 41; C. L., p. 408.

PART II.

§§ 1342-1346 are S. L. 1864; C. L., p. 424.

PART III.

§§ 1347, 1348 are S. L. 1880, ch. 39; C. L., p. 655.

PART IV.

§ 1349 is P. G., act 37.
Marriage records must be sent to registrar. See P. L., § 966.

[*CHAPTER 78.*]

[§§ 1350-1390.]

CHAPTER 79.

BUREAU OF PUBLIC INSTRUCTION—PARENTAL AND FILIAL DUTIES.

PART I.—ATTENDANCE.

§ 1391. If any child of school age shall persist in absenting himself from school, any district magistrate shall, upon proper complaint being made by the school-teacher, or any other officer or agent of the department, cause the father or the mother, guardian or other person having the charge of such child, to be summoned to appear before such magistrate, and upon its being proved that the person responsible for the child had not used proper diligence to enforce the child's regular attendance at school, such responsible party shall be fined by the magistrate in a sum not exceeding five dollars, and in default of pay-

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ment thereof such person shall be imprisoned at hard labor for a term not to exceed ten days. In case the child shall prove the offending party, the magistrate shall send him to a reformatory or industrial school for a term not less than six months or more than two years, or otherwise sentence him to a fine not exceeding two dollars, or imprisonment for a term not exceeding five days. Provided, however, that the provisions of this section shall not apply to any child not liable to compulsory attendance at school.

§ 1392. The teachers of all schools, either public or private, shall keep a correct register of the names, sex, age, and nationality, as far as ascertainable, date of entering the school, and the places of residence of the children attending their respective schools, and no teacher of any school shall grant a release to any child under fifteen years of age, who shall be registered as attending his school, for the purpose of attending another school, unless the consent and approval of the parents or guardians of such child shall be given in writing to the teacher, or unless authorized to grant such release by the school agent of the district for good reasons shown to his satisfaction. In every such case a certificate in writing shall be granted to the teacher setting forth the facts in the case.

The register shall be carefully preserved, and as often as the department shall direct the register or a true copy thereof shall be filed in the office of the department.

§ 1393. No teacher of any school, either public or private, shall receive into his school any child under fifteen years of age who shall have attended another school of the same class in the same district, unless such child shall produce to teacher of the school to be entered a certificate of release signed by the teacher of the school last attended by the child. If such child apply to attend a school of higher grade, a certificate of proficiency shall be required or a lawful excuse for its absence.

Provided, that the children from one district desiring to enter a school in another district may be received or admitted upon producing a certificate of release from the school last attended in such other district.

The teacher of any such school who shall violate any of the provisions of this or of the foregoing section shall, upon conviction thereof, before any district magistrate, be subject to a fine not exceeding ten dollars for each offense.

Part II.—Industrial and Reformatory Schools.

§ 1394. The act entitled "An act authorizing the board of education to establish an industrial and reformatory school for the care and education of helpless and neglected children, as also for the reformation of juvenile offenders," approved December 30th, 1864, be, and the same is hereby, repealed, from section 1 to section 10, inclusive.

§ 1395. The department of public instruction is hereby authorized to continue the industrial and reformatory school established in March, A. D. 1865, at Keoneula, Kapalama, Oahu, under the act of December 30th, 1864, authorizing the same; to be, as heretofore, conducted under the direction and supervision of the department of public instruction.

§ 1396. It shall be lawful for the department of public instruction to institute and establish industrial and reformatory schools in any part of the Territory when the same shall be deemed necessary, and

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when funds shall be available by legislative appropriation for that object. All such schools shall be conducted under the direction and supervision of the department of public instruction.

§ 1397. The only object of the said industrial and reformatory schools shall be the detention, management, education, employment, reformation, and maintenance of such children as shall be committed thereto as orphans, vagrants, truants, living an idle or dissolute life, who shall be duly convicted of any crime or misdemeanor, who shall be surrendered to the department of public instruction as guardians thereof, for the term of their minority, or who shall be received at such schools as hereinafter provided.

§ 1398. The district magistrates are hereby authorized to commit all offenders duly convicted before them, under fifteen years of age, to said industrial and reformatory schools in all cases where they shall deem such sentence to be more suitable than the punishment otherwise authorized by law.

§ 1399. The said district magistrates, on the representation of any member of the department of public instruction, its agents, the attorney-general or his authorized deputy, the chief sheriff or his deputy, or the sheriff or deputy sheriff of any island shall have power to hear and determine any case, and to sentence for any term within their minority to some industrial and reformatory school, any child under fifteen years of age who lives an idle or dissolute life, whose parents are dead, or if living from drunkenness or other vices or causes shall neglect to provide suitable employment for or exercise salutary control over such child.

§ 1400. The department of public instruction, or its agents, if authorized by the said department, shall have power to accept from the parents or guardian of any child the surrender of such child for the term of his or her minority, to be entered at some industrial and reformatory school; and all the rights of parents or guardians to keep, control, educate, employ, indenture, or discharge such child shall vest solely in the department of public instruction.

§ 1401. It shall be lawful for the department of public instruction, in its discretion, to receive into such industrial and reformatory schools the children under fifteen years of age of parents, guardians, or adoptive parents who shall desire the same; and the said department is hereby authorized to charge fees, or remit the same in special cases, for the children so admitted, as in the judgment of the said department shall seem proper.

§ 1402. The principals of said schools shall receive and detain at said industrial and reformatory schools all children who shall be committed thereto or placed therein, as provided in sections 1398, 1399, 1400, and 1401, and they shall be charged with the detention and custody of all children so committed or admitted and with the execution of all orders as well as process of court respecting such children.

§ 1403. It shall be lawful for the department of public instruction, or its agents, if authorized by said department, to bind out as apprentices, with their consent, all children over ten years of age as shall be committed or surrendered for their minority, and who shall have been admitted at any industrial and reformatory school, to such useful trades, employments, or occupations as shall be suitable to their years and capacity and as in the judgment of the said department will tend to the future benefit and advantage of such children.

§ 1404. Whenever it can be found that apprenticeships can not be obtained or suitable employment be provided at any industrial and

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reformatory school for children over fifteen years of age who shall have been committed or surrendered thereto for their minority, or sentenced for a shorter time, for any crime or misdemeanor, the department of public instruction, or its agents, if authorized by the said department, shall have authority to put them out to labor to families or other suitable persons upon such terms and conditions as in the opinion of the said department shall be deemed proper.

§ 1405. The department of public instruction shall have power, for good reasons shown to its satisfaction, to discharge or temporarily release any child committed to or admitted at any industrial and reformatory school who shall not have been bound out as an apprentice or adopted; and the district magistrates shall also have power to discharge from such schools children committed from their respective districts who shall not have been bound out as apprentices or adopted, if upon the hearing of any application for the same said magistrate shall consider that such discharge is expedient; but it shall be incumbent on said district magistrates, before granting any discharge that shall be applied for, to give thirty days' notice of the same in writing to the department of public instruction.

§ 1406. Any person who shall secretly or illegally abduct, or who shall be accessory to the secret or illegal abduction of, any child from any industrial and reformatory school shall be fined not exceeding one hundred dollars or imprisoned at hard labor not exceeding one year; and any district magistrate shall have jurisdiction of any case arising under this section within his district.

§ 1407. Any person who shall knowingly or intentionally entice away any child from any industrial and reformatory school, or who shall knowingly harbor or secrete any child who shall have been enticed away, or who shall have deserted from any such school, or who shall have left or forsaken his guardian or employer without permission, shall be fined not exceeding one hundred dollars, in the discretion of the district magistrate having jurisdiction of the case, as in the last preceding section provided.

§ 1408. All commitments to industrial and reformatory schools shall be directed to the department of public instruction or its authorized agents in the respective districts, but the chief sheriff of the Territory, or his deputies, shall be charged by such commitments with the execution of all orders for the custody and safe-keeping of the children committed to the said industrial and reformatory schools, until delivered over to the principal of the school to which such children shall have been committed, and shall defray all expenses attending the conveyance of such children to their place of destination from the funds under his or their control available for such purposes.

§ 1409. It shall be incumbent on the chief sheriff or any of his deputies to assist, as far as in their power lies, in the apprehension and recovery of deserters from any industrial and reformatory school, when requested to do so by the department of public instruction, its agents, or the principal of any such school; and likewise to assist as far as possible in enforcing order and maintaining discipline therein, should circumstances at any time arise necessitating the exercise of such authority.

§ 1410. The department of public instruction shall have full authority to prescribe rules and regulations, not in contrariety to the laws of the land, for the government, discipline, and care of all industrial and reformatory schools continued, established, or instituted under sections 1394–1411.

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§ 1411. The department of public instruction shall cause to be kept in every industrial and reformatory school a journal in which shall be regularly entered the reception, discharge, release, escape, or death of each of the inmates, together with all the particulars relating to such as shall be apprenticed, adopted, or put out to work. An exact account shall also be kept by the principal of each of the said schools of all moneys and other avails received for work performed by the children, as well as of the expenditure of such moneys and avails as shall be authorized from time to time by the department of public instruction.

§ 1412. Whenever it shall be found that the continued detention or custody of any inmate of any industrial and reformatory school at such school shall be subversive of the order and discipline of the school, or injurious in any way to the other inmates of the institution, it shall be lawful for any district magistrate, on representation to that effect being made by any member of the department of public instruction, its authorized agents, or the principal teacher of any such school, to hear and determine any such case, and if proved to his satisfaction, said magistrate is hereby authorized, in the place of further detention or custody at such school, to order that such minor be imprisoned, with or without hard labor, at some public jail for any term not exceeding the unexpired residue of the time for which such inmate shall have been last committed to such industrial and reformatory school.

§ 1413. If at any time after the commitment or transfer, as in the foregoing section authorized, of any inmate of an industrial and reformatory school to a public jail, it shall be found that such minor by his conduct gives reasonable proof of reformation, or for other good reason that shall be made to appear, it shall be lawful for any district magistrate, after receiving satisfactory evidence thereof, to order the discharge of such minor from jail or to return him to the custody of the department of public instruction at some industrial and reformatory school whenever requested so to do by a member of the department of public instruction or by its authorized agents.

§ 1414. All costs incurred under the provisions of sections 1412–1414 shall be paid by the department of public instruction out of any funds appropriated for industrial and reformatory schools.

Part III.—The Census.

§ 1415. It shall be the duty of the department of public instruction every sixth year, counting from the year 1860, to make a complete census of the inhabitants of the Territory to be laid before the governor and legislature for their consideration. Every census shall comprise, in distinct columns, the number of inhabitants in each district, the number of each sex, and such other particulars as the department of public instruction may direct, and shall show the increase or decrease of the population.

§ 1416. To enable the department of public instruction to carry into execution the design of the last preceding section, relating to the census, it is hereby authorized to make, through its agents, all proper and necessary inquiries. And all persons are hereby required, under pain of a fine not to exceed fifty ($50) dollars, to be imposed by any district magistrate, to answer to the best of their knowledge all such questions as shall be propounded by the agents of the department relating to, or necessary for, the making of a complete census.

§ 1417. The necessary expenses of making any census shall be paid

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by the treasurer, upon the order of the department of public instruction, out of any moneys appropriated by the legislature for that object.

PART IV.—GENERAL PROVISIONS OF THE PARENTAL AND FILIAL DUTIES.

§ 1418. It shall be the duty of all children within the years of legal majority to obey all the lawful and moral commands of their parents, respecting first, as most obligatory, those of the father, and next those of the mother; and, if adopted, as by law allowed, the lawful and moral commands of the parents by adoption; and, in default of natural or adopted parents, the lawful and moral commands of the guardians appointed according to law; and, in case of continued, willful, and obstinate disobedience on the part of a child, it shall be lawful for any district magistrate, upon complaint being made by any parent or guardian, to cause the said child to be arrested and brought before him; and should it appear to the said magistrate that such child is guilty of continued, willful, and obstinate disobedience, he shall sentence the said child to imprisonment at hard labor for a term not exceeding ten days: Provided, however, That no child under ten years of age shall be amenable to the provisions of this section.

§ 1419. Parents, that is to say, first the father and then the mother, or, in case they be both dead, guardians legally appointed, shall have control over the actions, the conduct, and the education of their children within the years of legal majority; they shall have the right, at all times to recover possession of their children by habeas corpus and to chastise them moderately for their good; and it shall be the duty of all parents and guardians to set a good example before their children; to provide, to the best of their ability, for their support and education; to see that they are instructed in a knowledge of the Christian religion; to use their best endeavors to keep them from idleness and vice of all kinds; and to inculcate upon them habits of industry, economy, and loyalty; and it shall be lawful for any judge of circuit court of this Territory, on a complaint being laid before him against any parent that he or she is encouraging their children in ignorance and vice, to summon such parents before him; and, upon its being proved to his satisfaction, to bind out such child, within the years of legal majority, to some person of good moral character to be well supported, trained to good habits, and taught at least the rudiments of knowledge.

NOTE TO CHAPTER 79.

§§ 1391–1393 are S. L. 1896, act 57; §§ 33, 42, and 43.
§§ 1394–1411 are S. L. 1870, ch. 41; C. L. p. 548.
§§ 1412–1414 are S. L. 1882, ch. 30; C. L. p. 683.
§ 1415 is P. C. ch. 79, § 6.
§ 1416 is S. L. 1878, ch. 17; C. L. p. 211.
§ 1417 is S. L. 1865, § 43; C. L. p. 211.
§ 1418 is P. C. ch. 79, § 5.
§ 1419 is S. L. 1865, § 40; C. L. p. 210.
P. C. ch. 79, §§ 1–4 repealed, S. L. 1896, act 57; §§ 8–9 repealed, S. L. 1896, act 50.
Cases in Hawaiian Reports: Beckley v. Lucas, 8 Haw. 41.

CHAPTER 80.

OF HIGHWAYS AND BRIDGES.

§ 1420. Any road supervisor who shall fraudulently free any person from road labor not exempted by law, or who shall not cause the

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persons liable to the road tax to work the full number of days and hours prescribed by law, shall, on conviction thereof before any district magistrate, be fined five dollars for each such offense; and all such fines shall be expended as part of the road tax of such district.

§ 1421. The road supervisor shall have power to compel the attendance and labor of the people liable to road tax to labor on the road anywhere within the district in which they reside, provided he shall remit one day's work for every five miles travelled by the people from their places of abode, section 1420 notwithstanding.

§ 1422. The road supervisors, in case of refusal to work or disorderly or mutinous conduct on the part of any workman, shall have the power to authorize and require any constable to apprehend the offender and take him before any district magistrate, who shall, unless good cause be shown to the contrary, sentence such offender to a fine not exceeding five dollars or imprisonment at hard labor not more than five days.

§ 1423. It shall be the duty of every man liable to the road tax to appear punctually at the time appointed for work with suitable implements, and to work diligently as directed by the supervisor, otherwise he shall be subject to a fine not exceeding five dollars.

§ 1424. All fines imposed and paid under sections 1422 and 1423 shall be paid over by the several district magistrates to the road supervisor of the district, and shall be expended by him as part of the road tax of such district.

§ 1425. No cattle, horses, mules, or asses, exceeding ten in number, shall be driven over any bridge of wood or iron in this Territory, of ten feet span or more, under the penalty of a fine of not less than one dollar nor more than ten dollars, recoverable against the driver or drivers of the same, by prosecution before any district magistrate: Provided, always, That in cases where no other passage is possible the district magistrate before whom such prosecution is had shall remit the fine.

§ 1426. No cart, wagon, dray, or carriage, drawn by oxen, horses, or mules, and no rider of any horse or mule shall pass over any wooden or iron bridge in this Territory, of ten feet span or more, at a pace faster than a walk, under a penalty of five dollars, recoverable against the driver of such cart, wagon, dray, or carriage, or rider of such horse or mule, before any district magistrate.

§ 1427. In the event that any damage is done to any bridge within this Territory, by reason of a violation of any of the provisions of this act, the owner or owners, driver or drivers, rider or riders of such cattle, horses, mules, asses, carts, wagons, drays, or carriages shall be liable in damages by suit, at the instance of the road supervisor of the district, recoverable before any district magistrate.

THE LAW OF THE ROAD.

§ 1428. Whenever any persons shall meet each other on any bridge, road, or other highway, traveling with carriages, wagons, carts, or other vehicles, each person so meeting shall seasonably turn his horse or other animal, or drive his carriage or other vehicle to the right of the middle of the traveled part of such road or bridge, when practicable, so that the respective carriages or other vehicles aforesaid may pass each other without interference.

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§ 1429. When it is difficult or unsafe for persons traveling with any of the aforesaid carriages or other vehicles, on account of their being heavily laden or otherwise, to turn or drive their carriages or other vehicles to the right of the middle of such traveled part, as aforesaid, any person thus prevented, when meeting with any other person traveling with any of the carriages or vehicles aforesaid, shall stop a reasonable time at a convenient part of the road, to enable such other person to pass by.

§ 1430. Whenever any person traveling with any carriage or vehicle as aforesaid, on any bridge or road, shall overtake any other person with any such carriage or vehicle, either stationary or at some inconvenient place for passing by, or traveling at a slower rate, and shall request such other person to permit him to pass, it shall be the duty of the person so overtaken to turn or drive his carriage or vehicle to the right or left of the middle of the traveled part of said bridge or road, or to stop a reasonable time in some convenient place, for the other person to pass by.

§ 1431. No person shall permit his carriage or vehicle to travel or pass, on any such bridge or road, without a suitable driver or conductor; nor shall leave the same on any such bridge or road stationary, in such a situation as to obstruct other persons traveling with any carriage or other vehicle.

§ 1432. Every person violating either of the foregoing provisions of the law of the road shall be fined, for each offense, not less than one nor more than twenty-five dollars. And any person injured by any violation of the provisions aforesaid shall be entitled to recover damages in an action to be commenced within six months after such injury.

§ 1433. Whoever digs up, cuts down, or otherwise maliciously injures or destroys any shade or ornamental trees on any public highway, unless the same is deemed an obstruction by the superintendent of public works or those acting under his authority, or by other persons by law duly authorized, shall be deemed guilty of a misdemeanor.

§ 1434. Whoever maliciously removes or injures any mile board or milestone, or guideboard or guideposts, or any inscription on such, erected on any public highway, shall be deemed guilty of a misdemeanor.

§ 1435. Any person who shall violate any of the regulations or rules that may be promulgated by the superintendent of public works under the provisions of chapter 24 of the civil laws, shall be deemed guilty of a misdemeanor.

§ 1436. Any person convicted of a misdemeanor under the provisions of sections 1433 to 1437, or chapter 24 of the Civil Laws, shall be punished by a fine not exceeding one hundred dollars.

§ 1437. The several district magistrates of the Territory shall have jurisdiction to try and determine all misdemeanors arising under sections 1433 to 1437, or chapter 24 of the Civil Laws, and all complaints for violation of any of the provisions of said sections or chapter, and to impose any of the penalties herein prescribed.

NOTE TO CHAPTER 80.

§§ 1420–1432 are P. C., ch. 80, §§ 1–13.
§§ 1433–1437 are S. L., 1892, ch. 47, § 17, § 23, § 25, § 26, and § 27.
Cases in Hawaiian Reports: Cummins v. Sumner, 3 Haw., 170.

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CHAPTER 81.

LANDING AND DRIVING CATTLE IN HONOLULU.

§ 1438. The superintendent of public works may designate a wharf or other landing place, with sufficient depth of water to accommodate coasting vessels, at which all cattle brought into the harbor of Honolulu in coasting vessels shall be landed; and the wharf or other place so set apart shall be published for at least three months, in the Hawaiian and English languages, in two newspapers published in Honolulu.

§ 1439. The superintendent of public works is hereby authorized to purchase for the Hawaiian government, and pay for the same out of the proceeds of sales of real estate, a suitable location for a wharf and road, to which all cattle brought into the harbor of Honolulu in coasting vessels shall be landed, and he shall establish reasonable charges for the use of such landing place.

§ 1440. Any person landing cattle from a coasting vessel at any wharf or other place in the harbor of Honolulu, other than that named and published by the superintendent of public works, as provided in the first section of this chapter, shall be subject to a fine of not less than twenty-five dollars nor more than one hundred dollars for each offense; and the vessel from which cattle may be so landed shall be liable for the amount of the fine and costs.

§ 1441. All driving of cattle through or over the streets of the city of Honolulu, and the leading thoroughfares within one-quarter of a mile thereof, from the intersection of King and Nuuanu streets, or upon any part of Nuuanu street, within one mile of such intersection, is hereby strictly prohibited, unless such cattle shall be sufficiently bound and controlled so as effectually to prevent all damage to the public, under a penalty of ten dollars for every head of such cattle so driven; the same to be recovered before the district magistrate of Honolulu.

§ 1442. This chapter shall not be construed to prohibit the driving of cattle between the hours of eleven o'clock in the evening and eight o'clock in the morning, through such streets and under such regulations as may be prescribed from time to time by the superintendent of public works.

NOTE TO CHAPTER 81.

§§ 1438 to 1442 are P. C., ch. 81, unaltered.

CHAPTER 82.

PRISONS.

§ 1443. The governor, his ministers, the judges of the supreme and circuit courts, members of the legislature, of the board of education, and the diplomatic and consular agents of foreign nations shall be allowed at suitable hours freely to visit any prison.

§ 1444. None but official visitors named in the last preceding section shall be allowed to visit any prison or to have any verbal or written communication with the prisoners, unless with permission of the chief sheriff or the keeper of the prison; nor shall any visitor whatever deliver or receive from any of the prisoners any letter or

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message, or supply any of them with any articles of any kind, except with the permission of and through the chief sheriff or keeper of the prison, under a penalty of not less than five nor more than two hundred dollars.

NOTE TO CHAPTER 82.

§§ 1443–1444 are P. C., ch. 82, §§ 2–3.
P. C., ch. 82, § 1, was also P. C., ch. 41, § 11, and Civil Code, § 214; it was repealed as part of P. C., ch. 41, by S. L., 1882, ch. 44.

CHAPTER 83.

TRESPASS OF ANIMALS—BRANDS AND MARKS.

§ 1445. If any person shall maliciously and designedly open a gateway or break a fence, so as to allow any animal ingress or egress so that it may commit a trespass, or shall maliciously and designedly drive or lead any animal into another locality where it may commit a trespass, he shall, for every offense, be subject to a fine of not more than one hundred dollars, or shall be imprisoned at hard labor not more than one year.

§ 1446. It shall be unlawful for any person to use any brand or mark that has been duly registered according to law in the name of another, except by the consent of such registered owner, his executors, administrators, or assigns. Any person violating the provisions of this section shall, upon conviction before any district magistrate, be fined five dollars for each animal so branded or marked.

§ 1447. It shall be unlawful for any person or corporation to use any brand that has not been duly registered according to law. Any person, officer of a corporation, or corporation using any brand that has not been duly registered according to law shall, upon conviction before any district magistrate, be fined not less than one dollar nor more than five dollars for each animal so branded.

§ 1448. Any person who shall obliterate any brand or mark on any animal by placing another brand or mark over the same or otherwise, although without a felonious intent, shall be subject to a fine not exceeding twenty dollars, in the discretion of the court, for every brand or mark so obliterated.

NOTE TO CHAPTER 83.

§§ 1445–1446 are S. L. 1888, ch. 35, § 18 and § 20; repealing P. C., ch. 83, § 1.
§ 1447 is P. G., act 39.
§ 1448 is P. C., ch. 83, § 2.

CHAPTER 84.

FISHERIES.

§ 1449. All fishing grounds appertaining to any government land or otherwise belonging to the government, excepting only ponds, shall be and are hereby forever granted to the people, for the free and equal use of all persons: Provided, however, That for the protection of such fishing grounds the governor may tabu the taking of fish thereon at certain seasons of the year.

§ 1450. The governor shall give public notice of any such tabu imposed by him; and no such tabu shall be in force until such notice has been given. Every person who shall violate such tabu shall be

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punished by a fine not exceeding fifteen dollars and the value of the fish taken.

[§§ 1451–1457.]

§ 1458. No person who has bought, or who may hereafter buy, any government land, or obtain land by lease or other title from any party, has or shall have any greater right than any other person, resident in this Territory, over any fishing ground not included in his title, although adjacent to said land.

[§ 1459.]

§ 1460. Every konohiki or other person who shall willfully deprive another of any of his legal rights to fish on any fishing ground which now is or may become free to the use of the people, or who shall willfully exact from another any portion of the fish caught on any public fishing ground, or who shall willfully exact of another, for the use of any private fishery, a greater amount of fish than by law he is entitled to receive as his share, and any tenant or other person who shall willfully deprive any konohiki of his fishing rights, by appropriating to himself the tabooed fish of said konohiki, or otherwise, shall be punished by a fine not exceeding one hundred dollars for every such offense, in the discretion of the court, and in default of the payment of such fine be imprisoned at hard labor not exceeding three months.

§ 1461. The several district magistrates shall have power to try and punish all offenses against the provisions of the last preceding section committed in their respective districts.

USE OF EXPLOSIVES.

§ 1462. No person shall use giant powder or any other explosive substance in taking fish within or upon any harbors, streams, reefs, or waters within the jurisdiction of this Territory.

§ 1463. The possession, by fishermen, fish venders, or persons in the habit of fishing, of fish killed by giant powder or other explosive substance shall be *prima facie* evidence that the person in whose possession such fish were found used giant powder or some other explosive substance in taking such fish, contrary to the provisions of sections 1462–1465.

§ 1464. Whosoever violates the provisions of sections 1462–1465 shall be punished by a fine not exceeding one hundred dollars nor less than twenty-five dollars, or by imprisonment at hard labor not exceeding six months, or both, in the discretion of the court.

§ 1465. The several district magistrates shall have jurisdiction in all cases under sections 1462–1465.

YOUNG FISH.

§ 1466. It shall not be lawful for any person to take, catch, or destroy the young of the fish known as mullet and the awa under four inches in length in any of the bays, harbors, waters, or streams of this Territory: Provided, however, That nothing in sections 1466–1468 shall prevent the taking of the fish hereinabove prohibited for the purpose of stocking ponds.

§ 1467. It shall not be lawful for any person to sell or offer for sale or have in his possession, except alive, any of the young fish mentioned in section 1466.

§ 1468. Any person violating the provisions of sections 1466–1468 shall, upon conviction before any district magistrate, be punished by a fine of not less than twenty nor more than two hundred dollars, or

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by imprisonment at hard labor for not less than ten nor more than ninety days, or both such fine and imprisonment, in the discretion of the court: Provided, nevertheless, That no such fine shall be imposed upon any person who, fishing for other fish, accidentally takes or catches no more than forty of the young fish mentioned in section 1466.

NOTE TO CHAPTER 84.

§§ 1449-1451 are P. C., ch. 84, §§ 1-3.
§ 1452 is C. L., § 387.
§ 1453 is S. L., 1892, ch. 18.
§§ 1454-1461 are C. L., §§ 389-396.
§ 1462 is S. L., 1872, ch. 2, § 1, C. L., p. 552.
§ 1463 is S. L., 1888, ch. 30.
§ 1464 is S. L., 1892, ch. 10.
§ 1465 is S. L., 1872, ch. 2, § 3, C. L., p. 552.
§§ 1466-1468 are S. L., 1888, ch. 58.
Cases in Hawaiian Reports: Haalekea v. Montgomery, 2 Haw., 62; Oui v. Meek, 2 Haw., 87; Hatton v. Piopio, 6 Haw., 334; Shipman v. Commissioners, 6 Haw., 353; Halstead v. Gay, 7 Haw., 589.

CHAPTER 85.

BIRDS AND GAME.

PART I.—PROTECTION OF BIRDS AND GAME.

WHEREAS great damage is caused yearly in the Territory of Hawaii during the rainy season by the ravages of caterpillars, cutworms, and other destructive grubs, to the various growing crops, such as wheat, corn, and tobacco, and to the pasturage;

AND WHEREAS, by a bountiful dispensation of Providence, the birds known here as the kolea, or plover, and the akeeke, or lesser pied plover, and the kukuluaeo, or long-legged plover, annually migrate to this Territory during the winter months and destroy vast numbers of the said destructive larvæ by feeding on them;

AND WHEREAS insectivorous birds have been brought from foreign countries with a view to their being propagated here: Therefore,

§ 1469. Any person who shall, from the first day of August to the last day of December, inclusive, of each year, and from the first day January to the last day of February, inclusive, of each year, kill or destroy by shooting, snaring, or otherwise, any one of the above specified birds, shall, on conviction thereof before any district magistrate, be fined in the penal sum of one dollar for each offense, to remain in custody until such fine be paid.

§ 1470. Any person who shall, from the first day of August to the last day of December, inclusive, of each year, and from the first day of January to the last day of February, inclusive, of each year, sell, or offer for sale, any one of the before-named birds, shall, upon conviction thereof before any district magistrate, be fined in the penal sum of one dollar for each offense, to remain in custody until such fine be paid.

§ 1471. Any person who shall shoot, snare, or otherwise destroy any bird brought from a foreign country for the purpose of propagating its species within this Territory, or any of the progeny of such imported bird; or who shall disturb the eggs and nests of such birds, shall, on conviction before any district magistrate, be fined not less than ten dollars nor more than twenty dollars for each offense, and in default of payment be imprisoned until such fine is paid.

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§ 1472. Whoever shall sell, or offer for sale at any time, any one of the birds mentioned in section 1471, shall, on conviction before any district magistrate, be fined in the sum of ten dollars, and in default of payment, be imprisoned until such fine is paid.

WHEREAS the imported bird called the mynah has increased, and has become an intolerable nuisance to the agriculturist and fruit grower, and its slaughter is yet restrained by law: Therefore,

Be it enacted, etc.

§ 1473. The restrictions imposed by section 1471 upon the killing or destroying of imported foreign birds is hereby removed and abolished as to the bird called the mynah bird.

§ 1474. Nothing herein contained shall be held to repeal or abolish said section 1471 as to any bird or animal excepting the mynah bird.

§ 1475. It shall be unlawful to take, kill, or destroy any migratory wild duck, plover, snipe, turnstone, curlew, stilt, or mud hen between the first day of May and the fifteenth day of September.

To take, kill, or destroy any native wild duck, Hawaiian goose, between the first day of February and the fifteenth day of September;

To take, kill, or destroy any quail or pheasant between the first day of March and the fifteenth day of September;

To take, kill, or destroy any wild dove or wild pigeon between the first day of February and the first day of July;

To take, gather, or destroy the eggs of any wild duck, mud hen, pheasant, dove, pigeon, or quail at any time. To buy, sell, or offer for sale, transport, or have in possession any of said game at any time when it is unlawful to kill the same.

§ 1476. Any person convicted before a district magistrate for violating any of the provisions of section 1475, shall be fined not less than ten dollars ($10.00) nor more than fifty dollars ($50.00).

§ 1477. Nothing in sections 1469–1472, 1477, 1479–1480, shall be construed as authorizing the killing, destroying, or ensnaring of any birds already imported, or that may hereafter be imported, for the purposes set forth in the above-mentioned sections.

§ 1478. All turkeys, pheasants, quail, peafowl, geese, or chickens running wild and at large on lands in this Republic shall belong to and be the property of the owner or owners of such lands.

§ 1479. No person shall shoot or otherwise destroy any animal *ferœ naturæ*, which shall have been introduced into this Territory within ten years, nor the progeny of such animals, under a penalty of not more than fifty dollars for each offense.

§ 1480. Nothing in sections 1469–1472, 1477, 1479–1480 shall be construed to prohibit the destruction of such birds or animals as shall be proved to be common nuisances.

PART II.—SHOOTING ON PRIVATE GROUNDS.

§ 1481. It shall not be lawful for any person or persons to enter upon any land belonging to or occupied by another for the purpose of hunting with dogs, or to shoot, kill, take, or destroy any kind of game without first having obtained permission from the owner or occupier of such land.

§ 1482. Any person who shall violate the provisions of section 1481 shall be deemed guily of a misdemeanor, and shall be punished upon conviction by a fine of not less than five dollars nor more than twenty-five dollars; provided, however, that no prosecution shall be had under the provisions of this section except upon the sworn complaint of the owner or occupier of such land.

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PART III.—RABBITS AND MONGOOSE.

§ 1483. The keeping and breeding of rabbits in the various islands of the Territory of Hawaii is hereby prohibited.

§ 1484. Any person who shall keep or shall maintain for breeding any rabbits in any of the islands of the Territory of Hawaii is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars for the first offense, and upon conviction thereof a second time shall be punished by a fine not exceeding one hundred dollars and imprisonment at hard labor not exceeding two months.

§ 1485. Any police officer or other officer of the peace is hereby authorized to destroy any rabbit found in this Territory, and no officer destroying any rabbits shall be liable for any damages for such destruction to any person claiming the ownership of such animals, provided that no officer shall enter in any inhabited inclosure for the purpose of taking or destroying any rabbits without authority of law under a warrant duly issued.

§ 1486. Sections 1483–1486 shall not apply to any persons raising rabbits when said rabbits are kept in a confined state and only intended or kept as pet animals.

§ 1487. From and after the passage of sections 1487–1489 it shall not be lawful for any person, corporation, or association of persons to introduce, keep, or breed any mongoose into or upon the Hawaiian Islands.

Any person, corporation, or association of persons who shall violate the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof before any district court shall be fined not less than two hundred and fifty nor more than one thousand dollars for each mongoose introduced, kept, or bred contrary to the terms of this section.

§ 1488. For the purpose of exterminating the mongoose already upon the island of Oahu, there shall be, and hereby is, set apart from any funds in the treasury, not otherwise disposed of, the sum of one thousand dollars, which shall be expended by the governor in the payment of a bounty of not to exceed twenty-five cents for each mongoose on the island of Oahu. The governor is hereby authorized to fix and from time to time change within the limit above set forth the amount of such bounty per head, and shall make such rules for regulating the payment of such bounty as, in his discretion, may seem necessary.

§ 1489. It shall be lawful for any person to kill and exterminate mongoose on any island of this Territory.

NOTE TO CHAPTER 85.

§§ 1469, 1470 are P. C., ch. 85, §§ 1, 2.
§ 1471 is S. L. 1870, ch. 13; C. L., p. 536, repealing P. C., ch. 85, § 5.
§ 1472 is P. C., ch. 85, § 4.
§§ 1473, 1474 are S. L. 1892, ch. 41.
§§ 1475, 1476 are S. L. 1895, act 4.
§ 1477 is P. C., ch. 85, § 6.
§ 1478 is S. L. 1884, ch. 3.
§ 1479 is S. L. 1870, ch. 13; C. L., p. 536.
§ 1480 is P. C., ch. 85, § 8.
§§ 1481, 1482 are S. L. 1892, ch. 77.
§§ 1483–1486 are S. L. 1890, ch. 61.
§§ 1487–1489 are S. L. 1892, ch. 48.

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CHAPTER 86.

ELECTIONS.

§ 1490. Offenses against the election laws and against the rules and regulations concerning the administering of oaths and the holding of elections are divided into two classes, viz, "Election frauds" and "Misdemeanors," as hereinafter defined.

ELECTION FRAUDS.

§ 1491. The following persons shall be deemed guilty of an election fraud:

1. Every person who shall directly or indirectly, personally or through another, give, procure, or lend, or agree or offer to give, procure or lend, or who shall endeavor to procure any money, or office, or place of employment of valuable consideration to or for any elector, or to or for any person for an elector, or to or for any person in order to induce any elector to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, or who shall do any such act on account of any person having voted or refrained from voting for any particular person at any election.

2. Every person who shall directly or indirectly, personally or through another, make any such gift, loan, offer, promise, procurement, or agreement as aforesaid, to any person, except to such assistants as are permitted by law in order to induce such person to procure or endeavor to procure the election of any person to the legislature, or to procure the vote of any elector at any election.

3. Every person who shall advance or pay, or cause to be paid, any money to, or to the use of, any other person, with the intent that such money, or any part thereof, shall be expended in bribery at any election, or for any purpose connected with or incidental to any election other than the objects and purposes for which money is by law or the said rules and regulations allowed to be expended, excepting only reasonable expenses for conveying voters to the polling places on election days; or who shall knowingly pay or cause to be paid any money to any person in the discharge or repayment of any money wholly or partly expended in bribery at any election, or for any purpose connected with or incidental to any election, other than the objects and purposes for which money is by law or the said rules and regulations allowed to be expended.

4. Every elector who shall, before, during, or after any election, directly or indirectly, personally or through another, receive, agree, or contract for any money, gift, loan, or valuable consideration, office, place, or employment, for himself or any other person, for voting or for refraining to vote or agreeing to refrain from voting, or for voting or refraining to vote for any particular person or party.

5. Every person who shall at any election, personally or through another, or by any ways or means on his behalf, directly or indirectly, give or provide, or cause to be given or provided, or shall be accessory to the giving or providing, or shall pay wholly or in part any expenses incurred for any meat, drink, entertainment, or provision to or for any person in order to be elected, or for being elected, or for procuring the election of any candidate, or for the purpose of influencing such person or any other person to vote or refrain from voting; or for

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voting or refraining from voting for any particular person or party, at such election, or on account of such person having voted or refrained from voting, or voted or refrained from voting for any particular person or party.

6. Every person who shall directly or indirectly, personally or through another, make use of, or threaten to make use of, any force, violence, or restraint; or inflict or threaten to inflict any injury, damage, or loss in any manner, or in any way practice intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, at any election, or on account of such person having voted or refrained from voting, or voted or refrained from voting for any particular person or party; or who shall by abduction, distress, or any device or contrivance, impede, prevent, or otherwise interfere with the free exercise of the elective franchise.

7. Every person who, at any election, votes or attempts to vote in the name of any other person, living or dead, or in some fictitious name, or who, having once voted, votes or attempts to vote again, or knowingly gives or attempts to give more than one ballot for the same office at one time of voting.

8. Every person who, before or during an election, knowingly publishes a false statement of the withdrawal of any candidate at such election.

9. Every person who induces or procures any person to withdraw from being a candidate at an election in consideration of any payment or gift, or valuable consideration; or of any threat; and every candidate who withdraws from being a candidate in pursuance of such inducement or procurement.

10. Every public officer by law or by said rules and regulations required to do or perform any act or thing with reference to any of the provisions in any law concerning elections or in said rules and regulations contained, who shall willfully fail, neglect, or refuse to do or perform the same, or who shall willfully perform it in such a way as to hinder the objects thereof, or who shall be guilty of any willful violation of any of the provisions thereof.

PUNISHMENT FOR ELECTION FRAUDS.

§ 1492. Every person found guilty of an election fraud shall be punished by a fine of not less than one hundred dollars or exceeding one thousand dollars, or by imprisonment at hard labor for any term not less than ten days or exceeding two years, or by both such fine and imprisonment at the discretion of the court.

Besides such punishment, such person shall be disqualified from voting and from holding any office under the Government, and from being elected to or occupying a seat in the legislature, for six years from the date of such conviction.

If the person so convicted shall hold any office, either elective or appointive, at the time of such conviction, such office shall at once and without mention in such sentence or other proceedings be vacated by such conviction. The judge or magistrate before whom such conviction is had shall immediately transmit to the governor the name of such person, the offense of which he has been convicted, and the sentence of the court.

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MISDEMEANORS.

§ 1493. The following persons shall be guilty of a misdemeanor:

1. Every person, except such assistants as are by law or by said rules and regulations specifically authorized to be employed, who shall, for the purpose of promoting or preventing the election of any candidate at any election, be engaged or employed for payment or promise of payment, or for any valuable consideration, to act as agent, clerk, or messenger, or in any other capacity.

2. Every person furnishing, hiring, or using any premises or portion thereof licensed to sell beer, wines, or spirits, as a committee room for the purpose of promoting the election of any candidate at any election.

3. Every person who shall be disorderly or create a disturbance whereby any meeting of the board of registration of voters or of the inspectors of election during an election shall be disturbed or interfered with; or whereby any person who intends to be lawfully present at any such meeting or election is prevented from attending; or who shall cause any disturbance at any election; and every person assisting or aiding or abetting any such disturbance.

4. Any candidate who fails or neglects to furnish the list of agents prescribed in said rules and regulations.

5. Every person who shall, either in person or through another, in any manner break up or prevent, or endeavor to break up or prevent, the holding of any meeting of the board of registration of voters, or in any manner break up or prevent, or endeavor to break up or prevent, the holding of any election.

6. Every person who, being a candidate for election, or an agent of any such candidate, or a member of any committee acting for or on behalf of any such candidate, shall fail to file the statement of expenses or of lack of expenses, as required in said rules and regulations.

7. Every person who shall willfully violate or fail to obey any of the provisions of law or of said rules and regulations, punishment for which is not otherwise herein specifically provided for.

8. Any person who shall willfully tear down or destroy or deface any election proclamation or any poster or notice, or list of voters, or card of instructions, or specimen ballot, issued or posted by authority of law.

PUNISHMENT FOR MISDEMEANORS.

§ 1494. Any person convicted of a misdemeanor under the provisions hereof shall be punished by a fine of not more than five hundred dollars, or by imprisonment at hard labor for not more than six months, or by both such fine and imprisonment, in the discretion of the court.

JURISDICTION.

§ 1495. Jurisdiction is hereby conferred upon district magistrates and circuit judges to issue warrants and hear and determine all offenses arising hereunder, subject to the usual right of appeal.

Any person in any way violating any of the provisions hereof may also be prosecuted for the violation of any other then existing law, rule, or regulation.

NOTE TO CHAPTER 86.

§§ 1490–1495 are L. R., act 8, §§ 1–6.
P. C., ch. 86, repealed, S. L. 1888, ch. 76.

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CHAPTER 87.

TAXES.

§ 1496. Any person who shall knowingly and willfully make and deliver any false return or valuation of property, or make any false answer in relation to his property or property in his possession or control, for the purpose of evading the assessment thereof, or by any falsehood, willful neglect, fraud, act, or contrivance whatsoever used or practiced, evade or attempt to evade assessment of his property or of property concerning which such person is required to make a statement, list, or return for assessment, shall be deemed guilty of a misdemeanor.

§ 1497. All persons willfully aiding, abetting, or assisting in any manner whatsoever any person to commit any of the foregoing acts or misdemeanors shall likewise be deemed guilty of a misdemeanor.

§ 1498. All assessors and deputy assessors and all police officers and constables, on whom duties are imposed under the provisions of chapter 50 of the Civil Laws, who shall willfully fail or refuse or neglect to faithfully perform any duty or duties of him required by the provisions of said chapter shall be deemed guilty of a misdemeanor.

§ 1499. Any person convicted of any misdemeanor under the provisions of this chapter shall be punished by fine of not more than five hundred dollars.

§ 1500. The several district magistrates in the Territory shall have jurisdiction to try and determine misdemeanors arising under this chapter.

NOTE TO CHAPTER 87.

§§ 1496–1500 are S. L. 1896, act 51, §§ 88–92.
P. C., ch. 87, repealed, S. L. 1882, ch. 43; C. L., p. 117.

CHAPTER 88.

DEADLY POISONS.

§ 1501. No person shall sell or deliver any deadly poison, or any wooden vessel or container which shall have contained any deadly poison, except for scientific, medicinal, or mechanical purposes, nor to any person not known to the vendor to be careful and well disposed: Provided, That sales may be made to a person not known to the vendor if some responsible person known to the vendor will certify in writing that the person desiring to purchase may safely be entrusted with the same; but in all cases the vendor shall require the purchaser to disclose the intended use of such poison, vessel, or container, as the case may be.

§ 1502. Every person who shall sell or deliver any deadly poison shall keep a book in which shall be recorded the name and quantity of the poison sold or delivered, the person to whom it was sold or delivered, and whether such person was known to the vendor, and if not, the name of the responsible person upon whose recommendation the same was sold; and the certificate of such person shall be preserved. The said book of records shall at all times be open to the inspection of the governor or his agent.

§ 1503. The book required to be kept by section 1502 shall contain a record of the sale of any vessel or container which shall have contained a deadly poison, in like manner as is required with respect to the sale or delivery of the poison itself.

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§ 1504. The box, phial, or other package in which any deadly poisons shall be sold or delivered shall bear a label containing the word "Poison," in large letters, both in the English and Hawaiian languages, together with some emblematic device, to be approved by the governor, which shall indicate the dangerous character of the article.

§ 1505. Every licensed physician, druggist, or apothecary who shall compound, sell, or deliver any prescription containing any poisonous drug or substance deleterious to human life, to be used as medicine, shall enter upon his books said prescription, written out in full, with the date thereof, with his own name appended thereto, or the name of the physician who prescribed the same, and the person to whom the same was delivered; and no such prescription shall be compounded, sold, or delivered unless the name of the person compounding, selling, or delivering the same, or the name of the physician prescribing the same, be appended to the prescription in full, and every such prescription shall be preserved; and said books and prescriptions shall be subject at all times to the inspection of the governor or his agent.

§ 1506. Any person violating the provisions of this chapter shall forfeit a sum not exceeding one thousand dollars for each offense.

NOTE TO CHAPTER 88.

§§ 1501 is S. L. 1872, ch. 16; C. L., p. 554.
§§ 1502 is P. C., ch. 88, § 2.
§§ 1503 is S. L. 1872, ch. 16; C. L., p. 554.
§§ 1504–1506 are P. C., ch. 88, §§ 3–5.
Cases in Hawaiian Reports: King v. Buffun, 3 Haw., 462; Rex v. Young Tang, 7 Haw., 53.

CHAPTER 89.

EXPLOSIVES.

PART I.—LIQUID EXPLOSIVES.

§ 1507. No person shall receive, keep, or store, or cause to be received, kept, or stored, or aid or assist any person in receiving, keeping, or storing, or have at any one time on any premises owned, leased, or occupied by him, except the storehouse provided therefor by the government, more than one case of naphtha and one case of benzole, nor more than ten cases of petroleum, kerosene oil, or any oil of which the component part is petroleum, naphtha, or spirits of turpentine.

§ 1508. The importation into this Territory of nitroglycerine and all other analogous liquid explosives or substances is absolutely prohibited, under the penalties hereinafter prescribed for each and every violation of the provisions of this chapter; and in the event that any nitroglycerine or any other analogous liquid explosives or substances shall be brought into this Territory in any vessel or vessels, the same shall be subject to seizure and condemnation.

§ 1509. Any person keeping, storing, or having benzole, petroleum, kerosene oil, or any oils of which the component part is petroleum, naphtha, or spirits of turpentine, in any one place except the storehouse provided by government therefor, in the quantities, as provided in this chapter, shall keep the same in air-tight metallic vessels, which vessel or vessels shall be marked with the words benzole, petroleum, kerosene oil, or the name of the oil or oils of which the component part is petroleum, naphtha, or spirits of turpentine in plain roman letters, and shall be kept at all times conspicuously in view near the

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entrance of the premises where kept, and convenient for removal therefrom.

§ 1510. It shall not be lawful for any person or persons to import into this Territory or sell within this Territory benzole, petroleum, kerosene oil, or any oils of which the component part is naphtha or gasoline, which gives off an inflammable vapor at a temperature of less than one hundred degrees Fahrenheit; and whoever shall import, sell, give, or furnish to any person in this Territory benzole, petroleum, kerosene oil, or any oils of which the component parts is naphtha or gasoline, which gives off an inflammable vapor at a temperature of less than one hundred degrees Fahrenheit, shall be deemed guilty of a misdemeanor, and on conviction before a district magistrate shall be punished by a fine not less than fifty dollars nor more than five hundred dollars or by imprisonment at hard labor not more than one year, or both fine and imprisonment, in the discretion of the court.

§ 1511. No person shall convey, or cause to be conveyed, or assist in conveying, in any vehicle, boat, or vessel any benzole, petroleum, kerosene oil, or any oil of which the component part is petroleum, naphtha, or spirits of turpentine, unless the same shall be securely packed in close metallic packages, nor unless such packages shall be securely covered while in such vehicle, boat, or vessel, and when transported on any boat or vessel shall be carried on the deck of such boat or vessel.

§ 1512. No person shall discharge benzole, petroleum, kerosene oil, or any oils the component part of which is petroleum, naphtha, or spirits of turpentine, from any vessel, except from ship's side or tackles, nor before the vessel shall be hauled up to the wharf; and all benzole, petroleum, kerosene oil, and all oils the component part of which is petroleum, naphtha, or spirits of turpentine, landed or placed on any wharf or deposited on any sidewalk in the city of Honolulu, Lahaina, or Hilo for forwarding or shipment shall be forwarded or shipped immediately after it shall be so landed or placed.

§ 1513. The chief sheriff of the Hawaiian Islands and his deputies, and the sheriffs of the different islands and their deputies, shall take possession of and safely store in the storehouses provided for such purpose all benzole, petroleum, kerosene oil, and all oils the component part of which is petroleum, naphtha, or spirits of turpentine that may be landed, stored, placed, or deposited in violation of any of the provisions of the preceding sections of this chapter, and shall keep the same until all expenses incurred by them in removing and storing the same shall have been refunded or repaid to them. But the acts of the said officers in relation thereto shall not relieve any person from any penalty theretofore incurred.

§ 1514. The chief engineer, the assistant engineers, and the secretary of the fire department and fire wardens of the city of Honolulu, and the chief sheriff of the Hawaiian Islands, the sheriffs of the different islands, and the police throughout the islands are directed to see that the provisions of this chapter are enforced, and to make complaints to the district magistrates for the violation of the provisions thereof.

§ 1515. Any person or persons violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and on conviction before a district magistrate shall be punished by a fine not less than fifty dollars nor more than five hundred dollars, or by imprisonment at hard labor not more than three months, or by both fine and imprisonment, in the discretion of the court.

§ 1516. The superintendent of public works is hereby empowered

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and fully authorized to make such rules and regulations in relation to the keeping on the premises of any person, and the storing of any explosive substances other than those known by the name of gunpowder and not hereinbefore particularly mentioned in this chapter, as he shall deem advisable for the protection of life and property.

PART II.—KEROSENE.

§ 1517. It shall be unlawful, except as hereinafter provided, to sell, offer for sale, give, or in any way furnish or dispose of any kerosene oil for illuminating or any other purpose in this Territory which, after being inspected and tested in the most approved manner and with the most approved appliances, shall ignite or evaporate an inflammable vapor at any temperature below one hundred and fifteen degrees Fahrenheit, but it shall be lawful to sell and dispose of any kerosene oil which bears a test of one hundred and fifteen degrees Fahrenheit or more.

§ 1518. Immediately upon the taking effect of sections 1517–1526 the treasurer shall appoint a skilled and suitable person or persons not interested in importing, dealing in, selling, or furnishing kerosene oil as government inspectors of kerosene oil, and shall provide the most approved instruments and apparatus necessary for testing oils; and the inspectors shall keep a true and accurate record of all oils inspected by them, which shall contain the dates of inspection, the quantities tested, the names of the persons for whom inspected, and the names of the vessels by which such oils were imported, and also the trade-mark of such oil and the degree at which the inflammable vapor ignited, and such records shall be open to the examination of any and all persons; and the inspectors shall annually make and deliver to the treasurer true and accurate reports of the inspections during the preceding year.

§ 1519. The inspector at or nearest to any port of this Territory shall inspect and test all kerosene oil as soon as landed by making not less than two or more than ten tests of any one importation of oil by one vessel and of one mark; and any inspector shall, upon the request of the chief sheriff of the Territory, or any sheriff, inspect and test in like manner any oil stored in the government storehouse or storehouses in the Territory set aside for that purpose at any time after importation and before removal from such place of storage. If upon such inspection and test the oil meets the requirements herein specified, the inspector shall so certify to the owner, or his agent, or to the importer of the oil; but all oil which will not stand or be equal to the test herein provided shall be rejected.

§ 1520. Any test of any lot of oil disputed may be submitted to the decision of a board of arbitrators, to consist of the inspector, some one chosen by the contestant, and a third to be chosen by the two so constituted. And the board shall procure samples and a majority may make an award. The costs of the arbitration to be borne by the contestant if the inspector's test be approved, otherwise to be borne by the government.

§ 1521. The treasurer is hereby authorized to make and issue a scale of fees for testing such oil. All fees and expenses incurred in testing such oil so imported shall be paid by the importer or consignee thereof.

§ 1522. All kerosene oil not equal to the test herein provided shall be at once exported by the owner, his agent, or the importer, and in

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case of any neglect or unreasonable delay in so doing, the inspector shall seize the same.

§ 1523. All kerosene oil imported into this Territory shall immediately after being landed be delivered at and stored in the government kerosene storehouse, or in storehouses set aside for that purpose: Provided, That lots may be transferred directly from the wharf where landed to any vessel, railroad station, or other place or premises authorized to receive the same: And provided further, That lots of not more than ten cases or one hundred gallons may be withdrawn from such storehouses and kept for consumption or sale on premises with an area of at least four hundred square feet within distinct walls, other than partition walls, except when the partition walls are fireproof; and when oil is kept on neighboring premises, it shall be so arranged that there shall be at least twenty feet clear between any two lots: Provided, That whenever, on account of the close contiguity of wooden buildings or inflammable structures, the storing of ten cases of kerosene oil in each of such structures or separate premises might, in the discretion of the fire marshal, cause special danger to the neighborhood in case of fire, the fire marshal may, with the approval of the treasurer, order the number of such cases reduced to any number not less than one case by written or verbal notice to any person upon such premises, or posted upon such premises, within such limits as the order shall specify, and for these purposes the fire marshal shall have the power to enter upon any premises in the Territory.

§ 1524. Whoever shall sell, cause to be sold, attempt to sell, give, furnish, deliver, or in any way dispose of any kerosene oil which has not been tested and inspected by the government inspector and certified to by him as of a proper test, or shall violate or attempt any violation of section 1523, or neglect or refuse to obey any order of the fire marshal as therein provided, and whoever shall knowingly sell, cause to be sold, attempt to sell, give, furnish, deliver, or have in possession any oil mentioned in sections 1517–1526 which is below one hundred and fifteen degrees Fahrenheit when tested as provided in sections 1517–1526, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or imprisonment at hard labor for not more than six months, or both, at the discretion of the court.

§ 1525. Any violation of duty under sections 1517–1526 on the part of any inspector shall be a misdemeanor punishable by a fine of not less than one hundred dollars or more than one thousand dollars, or imprisonment at hard labor for not more than one year, or both, at the discretion of the court; and he shall be removed from his position.

§ 1526. All parts of sections 1507 to 1516, inclusive, inconsistent with the provisions of sections 1517–1526 are hereby repealed.

Part III.—Unlawful Use or Possession of Explosives.

§ 1527. Any person unlawfully using dynamite or other explosive chemical or substance for the purpose of inflicting bodily injury upon or to terrify and frighten any person, or to injure or destroy any property, or damage the same in any manner, shall be liable, upon conviction, to pay a fine of not less than two hundred and fifty dollars nor more than five thousand dollars, and to imprisonment at hard labor for a term not to exceed twenty years.

§ 1528. Any person who shall have in his possession dynamite or

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other explosive chemical or substance other than ammunition for fire-arms with intent to use the same for the purpose of inflicting bodily injury upon or to terrify and frighten any person, or to injure or destroy any property, or damage the same in any manner, shall be liable, on conviction, to pay a fine of not more than three thousand dollars, or to imprisonment at hard labor for a term not to exceed five years.

§ 1529. At the trial of any person charged with having committed any of the offenses mentioned in section 1528, proof of possession of any such explosive shall be *prima facie* evidence of such unlawful intent, and the burden of proof shall be on the defendant to show that such possession was lawful.

§ 1530. No person arrested for violating the provisions of sections 1527–1531 shall be released on bail without an order from a circuit judge, or from the attorney-general, or the chief sheriff, or a sheriff.

§ 1531. Concurrent jurisdiction to hear and determine all cases arising under sections 1527–1531 is hereby conferred upon the several district magistrates and circuit judges at chambers, who shall have for the purpose all the authority now conferred by law upon district magistrates in cases within their jurisdiction, with the right of appeal and to take exception, as in ordinary cases before such magistrates.

NOTE TO CHAPTER 89.

§ 1507 is S. L. 1880, ch. 24; C. L., p. 646.
§§ 1508–1509 is P. C., ch. 89, §§ 2–3.
§ 1510 is S. L. 1878, ch. 22; C. L., p. 615.
§§ 1511–1516 are P. C., ch. 89, §§ 4–9.
§§ 1517–1526 are S. L., 1890, ch. 68.
§§ 1527–1531 are P. G., act 41.

CHAPTER 90.

FOR THE CONSTRUCTION OF STATUTES WHERE THE ENGLISH AND HAWAIIAN VERSIONS DO NOT AGREE.

§ 1532. Whenever there shall be found to exist any radical and irreconcilable difference between the English and Hawaiian version of any of the laws of the Territory which have been or may hereafter be enacted, the English version shall be held binding.

NOTE TO CHAPTER 90.

§ 1532 is P. C., ch. 90, unaltered.

CHAPTER 91.

TRIAL OF DIFFERENT DEGREES OF CERTAIN OFFENSES UNDER ONE INDICTMENT.

§ 1533. Under an indictment for robbery, larceny, or any other offense of more than one degree, the jury may, when the evidence will not warrant a verdict of guilty in the degree for which the prisoner is indicted, return a verdict for any lesser degree of the same offense.

NOTE TO CHAPTER 91.

§ 1533 is P. C., ch. 91, unaltered.

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CHAPTER 92.

CONTROL OF THE PRESS.

WHEREAS it is important for the protection of the rights of individuals, as well as of the public in general, that all newspapers and prints of like nature for the dissemination of news, information, instruction, or other purpose should be issued by responsible individuals or companies: Therefore,

Be it enacted, etc.:

§ 1534. From and after the promulgation of this chapter, it shall not be lawful to print and publish in the Hawaiian Islands any newspapers or prints of like nature for the dissemination of news, information, instruction, or other purpose until a certificate, duly attested by the oath of any person hereinafter specified, shall have been filed in the office of the treasurer.

§ 1535. The certificate mentioned in section 1534 shall contain the following information: The name of the proposed newspaper or other publication; the true names and abodes of the person or persons or corporation who or which will print the proposed newspaper or other publication; the true names and abodes of the editor or editors and publishers of such newspaper or other publication; the true names and abodes of the owners or proprietors of such newspaper or other publication; a true description of the house or place whence the same is to be issued; and the dates or periods when it is proposed to issue or publish the same. Such certificate shall be open to inspection during office hours without fee or reward.

§ 1536. Such certificate shall be signed and duly sworn to by any one of the editors, publishers, or proprietors of the newspaper or other publication referred to in the certificate.

§ 1537. Whenever any change shall occur in any of the facts covered by such certificate, a new certificate—noting such change and specifying in full the nature thereof, together with all the facts necessary to an understanding of such change and needed to complete all of the information contained in the certificate mentioned in section 1535—shall be filed immediately in the office of said treasurer. It shall be open to inspection during office hours without fee or charge.

§ 1538. The treasurer and the chief clerk of the treasury department are hereby authorized to administer the oath or affirmation required to such certificate, which shall be without charge.

§ 1539. There shall be paid, upon the filing of the certificate mentioned in section 1535, the sum of one dollar; upon the filing of any certificate of change, as required by section 1537, the sum of half a dollar.

§ 1540. Any person who shall knowingly vend or sell any newspaper or other publication for which a certificate must be filed as by this chapter prescribed, which certificate has not been filed, shall be liable to pay a fine of not less than ten nor more than one hundred dollars.

§ 1541. Any person making the certificates in this chapter provided, or swearing to the same, who shall knowingly insert therein or swear to any false statement shall be liable to the pains and penalties to which persons are liable for perjury.

§ 1542. In some prominent place in every newspaper or other publication by this chapter covered there shall always appear the place of publication and issue thereof, the name of the person or concern printing or publishing the same, together with the names

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and places of residence of all the editors, besides the names and places of residence of the proprietors. In case of failure to comply with the requirements of this section, each of the persons whose names should be so published shall be liable to pay a fine of not less than fifty nor more than five hundred dollars; for any second or further offense each of such persons shall be liable to pay a fine of not less than one hundred nor more than one thousand dollars; and upon conviction after a first offense the further publication of the newspaper or other publication may, in the option of the magistrate, be suspended temporarily or wholly.

§ 1543. Any person violating any provision of this chapter not hereinbefore specially provided for shall be liable to the payment of a fine of not less than one hundred nor over five hundred dollars.

§ 1544. The district magistrates of any district wherein an offense under this chapter arises are hereby authorized to take jurisdiction thereof.

NOTE TO CHAPTER 92.

§§ 1534–1544 are P. G., act 33.
Newspapers publishing seditious libels. See § 1625.

[*CHAPTER 93.*]

[§§ 1545–1591.]

CHAPTER 94.

SECRET ASSOCIATIONS.

§ 1592. It shall not be lawful for any persons to organize, form, or maintain any secret association for any purpose whatever, except under the provisions in this act set forth.

§ 1593. Any persons desiring to organize, form, or maintain a secret association in this Territory shall apply to the treasurer for a license to organize, form, and maintain a secret association. Such application shall be in writing, stating the object for which such association is organized, formed, and maintained, and shall be verified by the oaths of at least two of the persons making the application.

§ 1594. Such application shall be submitted to the governor, who may grant or refuse the request made.

§ 1595. If such application shall be granted, the treasurer shall, free of any cost or charge, issue a license to the applicants to organize, form, and maintain a secret association. The said license shall state the name of the association, the names of the applicants, and the object of the association.

§ 1596. Such license may be revoked and cancelled at any time by the governor.

§ 1597. Any person or persons who shall organize, form, maintain, join, become a member, or remain a member of any secret association not licensed as provided for in this chapter shall be guilty of a misdemeanor and upon conviction be punished by imprisonment not to exceed three months, or by a fine not exceeding one hundred dollars, or by both such fine and imprisonment, in the discretion of the court.

§ 1598. Any person owning or occupying premises upon which an unlicensed secret association assembles, who shall knowingly permit such assembly, shall be punished on conviction by imprisonment not to exceed six months, or by a fine not to exceed two hundred dollars, or by both such fine and imprisonment, in the discretion of the court.

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§ 1599. All secret associations now existing in this Territory shall, within thirty days after the approval of this chapter, apply for the license provided for in this chapter, and if such license be refused shall thenceforth cease to assemble, and any person or persons who may be members of such association and shall assemble or remain a member or members of such secret association shall be guilty of a misdemeanor and punished on conviction as provided for in section 1597.

§ 1600. The provisions of this chapter shall not apply to such secret associations which have obtained and have, or such which may hereafter obtain, charters of incorporation unders the laws of this Territory.

NOTE TO CHAPTER 94.

§§ 1592–1600 are S. L., 1884, ch. 52.

CHAPTER 95.

AGRICULTURE AND FORESTRY.

PART I.—COMMISSIONER OF AGRICULTURE AND FORESTRY.

[§ 1601.]

§ 1602. It shall be the duty of the commissioner of agriculture and forestry to seek to prevent the introduction into this Territory of any plant disease, blight, or insect pests injurious to any tree or trees, plant or plants, or vegetation, and to seek to exterminate any such diseases, blight, or insect pests now existing or hereafter introduced.

They shall have the power to enter upon any premises where they have reason to believe there is any tree, plant, or vegetation affected with any disease, blight, or insect pest, and to take all reasonable and proper steps to prevent the spread of any such disease, blight, or insect pest; and if after due trial (such trial to be not longer than ten days) it is found by said commissioner, or one of them, that the trees, plants, or vegetation can not be cured or the blight destroyed, that then and in such case he or they may order the same destroyed.

§ 1603. The master of any vessel entering any port of this Territory from a foreign port on which there shall be any plant to be landed in this Territory shall immediately upon arrival notify the commissioner, and shall not permit the plant, nor any of the soil, containers, or coverings connected with the same, to be removed from the vessel until the commissioner shall have inspected and passed the same.

§ 1604. Whenever, after careful examination and attention, the commissioner shall have reason to believe that any plant imported from a foreign port is affected with any disease, blight, or insect pest, he shall cause such plant to be utterly destroyed, together with its container and coverings, and shall dispose of the soil, if any, in which such plant was imported in such manner as shall destroy any disease, blight, or insects which may be in the same.

§ 1605. It shall be the duty of every person to report immediately to the commissioner any tree, plant, or vegetation on or about his own premises or the premises of another which he shall have reason to believe is affected with disease, blight, or insect pest.

§ 1606. The commissioner, subject to the approval of the governor, may make such regulations for the Territory as he judge necessary for the public safety in the prevention of the introduction or spread of plant diseases, blight, and insect pests. Due notice of all such regu-

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lations shall be given in the Hawaiian, English, Portuguese, Japanese, and Chinese languages.

§ 1607. Any person violating any of the provisions of sections 1601–1609, or any of the regulations of the commissioner, after the same shall have been duly approved and published, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any district magistrate shall be fined not more than one hundred dollars.

[§ 1608.]

§ 1609. For the purpose of carrying into effect the provisions of sections 1601–1609 the commissioner shall be, and is hereby, invested with full power to apportion and disburse all sums of money that shall be appropriated by the legislature for this purpose. All drafts upon the public treasury for expenditures under sections 1601–1609 shall be drawn by the commissioner and countersigned by the governor.

PART II.—PRESERVATION OF FORESTS.

WHEREAS it is an established fact that the destruction of forests in any country tends to diminish the supply of water: Therefore,

Be it enacted, etc.:

§ 1610. That the governor is hereby authorized to set apart and cause to be protected from damage by trespass of animals or otherwise such woods and forest lands, the property of government, as may in his opinion be best suited for the protection of water sources and the supply of timber and fruit trees, cabinet woods, and valuable shrubbery.

§ 1611. For the purposes contemplated in sections 1610–1614 the governor is hereby authorized to appoint some competent person as superintendent of woods and forests, who shall, under the direction of the said governor, enforce such rules and regulations as may be established to protect and preserve such reserved woods and forest lands from trespass. Said superintendent shall have charge of the construction of all fences and barriers required to protect the said woods and forest lands, and shall be responsible for their being kept in good condition. He shall, under the direction of the said governor, be empowered to cause the arrest of any trespassers on such lands, and all constabulary or police of the districts in which such woods and lands may be situated are hereby required to assist the said superintendent in carrying out the directions of the said governor in the premises. And it is hereby made an offense, punishable by a fine not to exceed one hundred dollars, or imprisonment at hard labor not to exceed one year, upon conviction before any district magistrate of any person who will violate any of the rules or regulations established as aforesaid tabuing such woods and forest lands.

[§ 1612.]

§ 1613. Whenever it shall be necessary to extinguish any private right or title in any woods or lands required to fully carry out the intention of sections 1610–1614, the fair valuation of the same shall be determined by referees agreed upon by and between the parties interested therein and the governor, and the valuation so adjudged and determined shall be the extreme limit of the price to be paid by the government for such woods or lands, and upon making tender of such price so determined by the referees, it shall be lawful for the said governor to take possession of such woods and lands for the purposes aforesaid.

§ 1614. The superintendent of woods and forests shall receive for the faithful performance of the duties of his office, such sum as the governor shall direct.

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PART III.—COFFEE.

§ 1615. That in order to prevent the introduction of the coffee leaf disease, and other diseases injurious to the coffee plant, the importation into the Territory of Hawaii of coffee trees or shrubs is hereby prohibited.

§ 1616. Any person who shall violate section 1615 shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five nor more than fifty dollars, and any trees or shrubs so imported contrary to this law shall be forthwith destroyed by the chief sheriff or his deputy.

PART IV.—FOREST ROADS.

§ 1617. From and after the passage of sections 1617–1619 it shall not be lawful for any person to cut, mutilate, or destroy any forest tree or growing shrubbery or underbush within 250 feet of any road which may have been or hereafter may be constructed by the government through any natural forest.

§ 1618. Sections 1617–1619 shall not be construed to prevent any person who may have already cleared and planted land, such land now being under cultivation, from clearing trees, shrubbery, and underbrush therefrom to a sufficient extent to properly continue such cultivation, nor to prevent the holder of such lot from constructing a road to the rear of such lot.

§ 1619. Any person violating sections 1617–1619 shall be fined not less than ten dollars nor more than fifty dollars for each offense.

NOTE TO CHAPTER 95.

§§ 1601–1609 are S. L. 1890, ch. 2.
§§ 1610–1614 are S. L. 1876 ch. 30; C. L., p. 584.
§§ 1615–1616 are S. L. 1888, ch. 34.
§§ 1617–1619 are S. L. 1892, ch. 88.

[*CHAPTER 96.*]

[§§ 1620–1632.]

CHAPTER 97.

OPIUM.

§ 1633. The importation of opium or any preparation thereof into the Hawaiian Islands, except as authorized by section 1634, is hereby strictly prohibited; and whoever shall import, sell, give, or furnish opium, or any preparation thereof, to any person in the Hawaiian Islands, except as provided in section 1634, shall be liable to a penalty of not less than five hundred dollars, nor more than two thousand dollars, and to be imprisoned at hard labor for any term not less than one month nor more than two years; one-half of which pecuniary penalty shall be paid to the person or persons giving the information which shall lead to the conviction of the offender.

§ 1634. The board of health may, from time to time, import such quantities of opium or preparations thereof as the said board shall deem necessary for medical purposes in the Hawaiian Islands, and shall furnish it at cost price to any physician or surgeon having a diploma or certificate from some medical college or university, and who has a license to practice medicine in the Hawaiian Islands; also, to the person in charge of the medicines at the leper settlement at Molokai, to be

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used exclusively for medical purposes. And the said board may also furnish it to the captain or surgeon of any vessel bound to a foreign port for use on board of such vessel.

§ 1635. Any person who shall have in his possession opium, or any preparation thereof, which he shall not have received from the board of health, or from a duly licensed physician or surgeon, as prescribed in section 1634, shall forfeit such opium or preparation thereof to the government, and the same shall be seized and delivered to the board of health; and such person shall be liable to a penalty of not less than fifty nor more than two hundred and fifty dollars, or to be imprisoned at hard labor for a term of not less than one month nor more than six months, or both, in the discretion of the magistrate, one-half of which pecuniary penalty shall be paid to the party giving the information which shall lead to the conviction of the offender.

§ 1636. Any physician or surgeon who shall sell, prescribe, or furnish opium, or any preparation thereof, to any person in the habit of smoking or otherwise using the same, or to any other person, except as a remedy in case of sickness, shall forfeit to the Government all opium, or preparations thereof, which may be in his possession; and it shall be seized and delivered to the board of health, and he shall be fined in the sum of not less than twenty-five nor more than one hundred dollars; and if he shall violate this chapter more than once he shall not again be furnished with opium by the board of health.

§ 1637. All confiscated opium or preparations thereof which shall have come into the possession of the board of health shall be securely kept until such time as the same shall be disposed of as hereinafter provided, except that where the quantity of opium seized shall be less than one one-half pound tin the same shall be destroyed.

§ 1638. The board of health shall, as soon as practicable, sell all confiscated opium, or preparations thereof, which shall have come into its possession, and at such price as it may deem fit; such sale may be either public or private, in the discretion of the board, provided that all opium so sold shall be exported from this country. The proceeds derived from the sale of confiscated opium shall be the property of the government of Hawaii; provided, however, that the board of health may, in its discretion, destroy any or all opium which may have come into its possession under the provisions of this chapter. In lieu of one-half of the gross proceeds of the sale of confiscated opium heretofore paid the informer, said informer shall be paid the sum of one dollar per pound of actual opium or preparation thereof seized and confiscated; said sum to be paid from any fund that may be available for said purpose, and shall be payable upon the confiscation of said opium to the Government.

§ 1639. The several district magistrates are hereby invested with authority to try and determine all cases arising under this law.

§ 1640. Nothing in this chapter shall be construed to exempt any person or vessel from the pains and penalties prescribed by the laws of the Hawaiian Islands against smuggling.

NOTE TO CHAPTER 97.

§§ 1633–1640 are P. G., act 12, amended as follows: § 1633 and § 1638 by P. G., act 77. Cases in Hawaiian reports: King v. Apuna, 3 Haw., 154; King v. Auwai, 3 Haw., 687; King v. Ah Fong alias Ah Fawn, 4 Haw., 619; King Ah Sing, 5 Haw., 553; Re Brito, 7 Haw., 42; Re v. Young Tang, 7 Haw., 49: Rex. v. Young Hong, 7 Haw., 359; Rex v. Lau Kiu, 7 Haw., 489; The Consuelo, 7 Haw., 704; Rex v. Ah Hoy, 7 Haw., 749; Rex v. Wall, 7 Haw., 760; Govt. v. Gertz, 9 Haw., 288; Rex v. Lee Yick, 10 Haw., 135; The Henrietta, 10 Haw., 241; R. v. Anderson, 10 Haw., 252.

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CHAPTER 98.

COURTS-MARTIAL.

§ 1641. The following officers may appoint courts-martial: The commander in chief, general courts-martial; the regimental commander, regimental courts; and every officer commanding a garrison or other place where troops are quartered shall be competent to appoint for such garrison or place garrison courts-martial.

§ 1642. Officers who may appoint a court-martial shall be competent to appoint a judge-advocate for the same.

§ 1643. Courts-martial and the judge-advocate thereof shall have the same power to summon and examine witnesses as district courts.

§ 1644. General courts-martial may consist of any number of officers from three to five, inclusive.

§ 1645. Regimental and garrison courts may consist of any number of officers from one to three, inclusive.

§ 1646. General courts-martial shall have concurrent jurisdiction over all offenses which may be tried before a regimental or garrison court-martial, and exclusive jurisdiction over the following offenses:

Conduct unbecoming an officer and a gentleman.

Enlisting in another company without proper discharge.

Disobeying a lawful command of a superior officer.

Inciting or joining in a mutiny or sedition, or failure to report same to commanding officer.

Desertion.

Cowardice while on active duty.

Misbehavior in presence of the enemy.

All felonies committed in the time of war by persons belonging to or serving with the national guard or sharpshooters.

Absenting oneself without leave.

Sleeping on post when a sentinel, or leaving post before being relieved.

Giving information to any person concerning the equipment of the national guard or sharpshooters, or the amount, kind, location of arms, ammunition, or military stores the property of the government.

Selling or appropriating or parting with any arms, ammunition, or government property.

Knowingly receiving or purchasing arms, ammunition, or government property from one not having lawful authority to sell or dispose of same.

Forcing safeguard in time of war.

Relieving with money, victuals, or ammunition, or harboring, protecting, corresponding with, or giving intelligence to the enemy, directly or indirectly.

Making false muster or return.

Violating any regulations promulgated by the commander in chief for the government of the national guard and sharpshooters.

§ 1647. The following offenses shall be within the jurisdiction of regimental and garrison courts-martial:

Occasioning false alarms.

Hiring duty, conniving at, or allow same.

Drunkenness while on duty or while on active service.

Failure to report for duty, drill, or parade.

Breaking furlough or leave.

Disorderly conduct on active service.

Want of personal neatness.

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Want of care of arms, uniform, or equipment.
Profanity.
Lying out of quarters.
Reproachful or provoking speeches and gestures.
Disrespectful behaviour to a superior officer.
Making known watchword to one not entitled to receive it.
Committing waste or spoil (unless by order of officer commanding in field).

§ 1648. All officers and enlisted men in the service of the Territory of Hawaii shall at all times be subject to trial by court-martial. And all crimes not capital, and all disorders and neglects to the prejudice of good order and military discipline, though not mentioned in sections 1646 and 1647 of this act, are to be taken cognizance of by a general, regimental, or garrison court-martial, according to the nature and degree of the offense, and punished at the discretion of such court.

§ 1649. Officers shall be tried only by general courts-martial; and no officer shall, when it can be avoided, be tried by officers inferior to him in rank.

§ 1650. All members of courts-martial, before proceeding with any trial, shall take an oath to administer justice without partiality, favor, or affection, according to the laws of the Territory of Hawaii.

§ 1651. In the conduct of all trials, courts-martial shall follow military usage and precedents heretofore established and as set forth in the statutes and regulations governing the Army of the United States.

§ 1652. All persons who, in time of war, rebellion, or insurrection against the supreme authority of the Territory of Hawaii, shall be found lurking or acting as spies in or about any of the fortifications, posts, quarters, or encampments of any of the military forces of the Territory of Hawaii, or elsewhere, shall be triable by a general court-martial or by a military commission, and shall, upon conviction thereof, suffer death or such other penalty as may be imposed by such courts-martial or military commission.

§ 1653. All persons sentenced to imprisonment by courts-martial or military commission may be confined in such place as the sentence of the court may direct.

§ 1654. No sentence of death, imprisonment, or dismissal of officers from the service shall be valid unless approved by the commander in chief.

§ 1655. All infractions against military discipline shall be punished as courts-martial may direct.

§ 1656. General courts-martial in time of peace may impose the punishment of fine not exceeding fifty dollars and (or) dishonorable dismissal from National Guard, in the case of officers and enlisted men not on active service, when found guilty of any offense named in sections 1641–1658, or of any violation of any regulation promulgated by the commander in chief. And in case of officers and enlisted men on active service such courts may punish by fine not exceeding one hundred dollars and imprisonment until such fine is paid, and (or) by imprisonment not exceeding twelve months, and (or) by dishonorable dismissal from the service.

§ 1657. In time of war general courts-martial of military commissions may impose the penalty of death, and may impose all penalties authorized by law for offenses which may be tried by such courts-martial or military commission, and may impose a fine not exceeding five hundred dollars and (or) imprisonment at hard labor not exceeding five years in all cases not otherwise provided for.

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§ 1658. Regimental or garrison courts-martial in time of peace may impose punishment by fine not exceeding ten dollars and (or) dishonorable dismissal from the National Guard in case of enlisted men not on active service, and in case of enlisted men on active service by fine not exceeding forty dollars and (or) by imprisonment not exceeding one month, and in time of war by fine not exceeding one hundred dollars and (or) imprisonment not exceeding three months and (or) by dishonorable dismissal from the National Guard.

§ 1659. It shall be the duty of the chief sheriff or his deputy, whenever so required by the order of the commander in chief of the military forces or by the precept or mandate of the governor, and upon and in conformity therewith to execute and carry out the sentence of any military commission or court-martial convened, or to be convened, in the manner and at the time and place designated in the order approving the findings and proceedings of and confirming or modifying the sentence imposed by such military commission or court-martial.

§ 1660. Any jail or prison of the Territory or other place designated by the governor or commander in chief may be used as a place of imprisonment or detention of any person convicted and sentenced to imprisonment by any such commission or court-martial.

NOTE TO CHAPTER 98.

§§ 1641-1647, 1649-1658 are S. L. 1895, act 20, §§ 22-39.
§ 1648 is S. L. 1898, act 30, § 3.
§§ 1659-1660 are L. R., act 18.

[*CHAPTER 99.*]

[§§ 1661.]

CHAPTER 100.

REGISTRATION OF COPARTNERSHIPS.

§ 1662. Whenever any two or more persons shall carry on business in this Territory in copartnership, it shall be incumbent for such persons to file in the office of the treasurer a statement of—

1. The names and residences of each of the members of such copartnership.
2. The nature of the business of such copartnership.
3. The firm name of copartnership, and
4. The place or places of business of the copartnership.

§ 1663. All persons who, at the time of the commencement of this chapter, shall be carrying on business in copartnership, shall, within two months of the time of the commencement of this chapter, cause such statement as aforesaid to be filed in the office of the treasurer.

§ 1664. Whenever any change shall take place in the constitution of any such firm by the death or withdrawal of any member thereof, or by the addition of any member thereto, or by the dissolution thereof, a statement of such change or dissolution shall also be filed in the said office of the treasurer within one month from such change, death, or dissolution as the case may be.

§ 1665. All such statements as are required to be made by the preceding sections shall also be published by the members of each copartnership at least twice in the Hawaiian and English languages, in two newspapers published in Honolulu.

§ 1666. The treasurer shall cause a book to be kept in his office, in

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which shall be recorded the several particulars hereinbefore required to be filed in his office, and which book shall be open for public inspection on payment of a fee of twenty-five cents for each inspection.

§ 1667. There shall be paid to the treasurer a fee of fifty cents for each name so recorded as aforesaid.

§ 1668. The members of every copartnership who shall neglect or fail to comply with the provisions of this law shall severally and individually be liable for all the debts and liabilities of such copartnership, and may be severally sued therefor without the necessity of joining the other members of the copartnership in any action or suit, and shall also severally be liable upon conviction to a penalty not exceeding five dollars for each and every day while such default shall continue, which penalties may be recovered in any district court.

§ 1669. Nothing in this chapter contained shall be deemed or construed to apply to corporations or incorporated companies.

§ 1670. All fees received by virtue of this chapter shall be accounted for as part of the revenue of the government of Hawaii.

NOTE TO CHAPTER 100.

§§ 1662–1670 are S. L. 1880, ch. 28; C. L., p. 648.

CHAPTER 101.

QUARANTINE OF ANIMALS.

WHEREAS, with the importing of live stock from foreign countries, several diseases hitherto unknown in the Hawaiian Islands have been introduced in this country which have spread abroad, whereby much valuable stock has been destroyed and large loss entailed on the owners thereof, and no specific regulations exist or laws provide for the protection therefrom: Therefore,

Be it enacted, etc.:

§ 1671. The governor is hereby authorized and directed to establish on each of the islands of the Territory having ports of entry a quarantine station or stations for animals.

§ 1672. The governor is hereby authorized to appoint three competent persons for each port of entry of the Territory, who shall be designated "boards of inspectors of animals," and from time to time, when such offices for any reason shall become vacant, to reappoint competent persons to fill the same. One of the three appointed on each board shall be designated as the executive inspector. Such officers, for the purposes of this chapter, shall possess all the powers, rights, privileges, and immunities of officers acting under the board of health, and it shall be their duty to cause the various quarantine stations to be kept clean and properly fitted for use.

§ 1673. The master of any vessel on which there shall have been shipped live animals for any port in this Territory shall immediately upon arrival cause the inspecting officers to be notified, and shall not permit the animals to be taken from the wharf or landing, nor of any portion of the food or water, nor of any effects connected therewith or provided for their use during the voyage, to be removed from the wharf or landing until the inspecting officer shall have inspected and passed the same.

§ 1674. All live animals except such birds and small animals as shall be especially exempted by the inspecting officer, shall be subject, on arrival in this Territory from any foreign port or country, to be quaran-

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tined at the expense of the owner or consignee thereof, in such places as shall be appointed by the governor, for a period of not less than thirty days, and for such longer period as shall be deemed necessary by the board of inspectors on account of the presence of any contagious disease or distemper, or because the port or country whence such animals are brought is affected with such disease or distemper, or for any other good and sufficient reason having reference to the public good. Whenever, after careful examination and attention the inspecting officer shall find that such animal or animals are infected with any disease or distemper of a nature dangerous to the live stock of the country, he shall report the same to the board of inspectors, and if the majority of the board of inspectors shall decide that the public interests require, they shall cause such animal to be utterly destroyed; said board of inspectors may also cause all the food and other effects connected with such animals, independently of the animals themselves, to be destroyed.

§ 1675. Live animals passing between the different islands of the Territory may be quarantined as set forth in section 1673, either at the port of shipment or delivery, on good cause shown to the inspecting officer of the port of entry nearest to the port of shipment or delivery.

§ 1676. The governor, notwithstanding anything in this chapter, may from time to time, by proclamation declaring any port or country to be infected, absolutely prohibit the introduction of any animals therefrom until the restriction be removed.

§ 1677. All imported animals, fodder, fittings, or effects landed contrary to the provisions of this chapter, or taken or removed from quarantine until duly discharged, shall be forfeited to the use of the government of Hawaii, and all animals brought into such quarantine grounds, or placed with any animals under quarantine, shall be deemed to come under the provision hereof and shall be subject to all the conditions of the same.

§ 1678. It shall be the duty of every person to report immediately to the nearest executive inspector or inspecting officer any animal on or about his own premises or the premises of another which he shall have reason to believe to be affected with any infectious or contagious disease or distemper, under a penalty of not less than five nor more than one hundred dollars for each offense.

§ 1679. Said inspecting officers shall have the power to enter upon any premises where they have reason to believe there is any animal affected with any infectious or contagious disease or distemper of a nature dangerous to the live stock of the country, and to cause any such animal to be placed in quarantine for such time as said officer may deem necessary. And shall have the power with the approval of the majority of said board to cause any such animal to be destroyed.

§ 1680. Any and all persons knowingly and willfully violating any of the provisions of this chapter, or assisting in so doing, or who shall purchase, take, and carry away any animals, fodder, effects, or fittings connected therewith before the same shall have been discharged by the inspecting officer, or shall knowingly and willfully have in possession any of the same, or shall impede or refuse to allow said inspecting officer to perform his duty, then such person or persons shall be liable to imprisonment at hard labor for any period not over six months, or to a fine not over five hundred dollars, or both, and all such offenses may be tried before any district magistrate.

§ 1681. There shall be collected from the owner or consignee of animals inspected under this chapter one dollar per head for all horses, mules, and cattle; fifty cents per head for all sheep and goats; ten cents

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each for every other animal or bird, and when from the nature of the case, the making of such inspection shall be unusually onerous or severe, twenty-five per cent additional shall be paid to the inspector.

All fees collected shall belong to the officer making the inspection, and shall be full compensation for his services for such inspection.

§ 1682. The several executive inspecting officers of the Territory shall keep regular records of the proceedings of their respective boards, and shall semiannually make a full and detailed report of their transactions, including an account of their receipts and expenses, to the governor, who shall lay the same before the legislature.

§ 1683. All reasonable expenses incurred in placing any diseased animals in quarantine and of feeding and caring for the same, including medical treatment, while in quarantine, shall be paid by the owner or consignee of such animals.

§ 1684. Any executive inspector appointed under this chapter may sue in his own name, or the majority of any of said boards may sue in the name of such board, any such owner or consignee who shall refuse or neglect to pay the fees or expenses mentioned in this chapter, or may in his or their discretion hold any animal for which the fees and expenses have not been paid after demand, and after five days' public notice, sell the same at public auction (provided such animal be not affected with any infectious or contagious disease or distemper), and from the proceeds of such sale the executive inspector or majority of such board may retain a sufficient amount to cover the fees and all expenses incurred, and the balance pay over to the owner or consignee of the animal thus sold.

§ 16 5. The governor shall from time to time make and publish such rules and regulations as shall be necessary for the more efficient carrying into effect the provisions of this chapter.

NOTE TO CHAPTER 101.

§ 1671, § 1673, § 1674, §1678, § 1679, and §§ 1681–1684 are S. L. 1884, ch. 29.
§ 1672 is S. L. 1892, ch. 23.
§§ 1675–1677, § 1680, and § 1685 are S. L. 1882, ch. 34; C. L., p. 685.

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[Matter in brackets omitted; recommended by Commission to be repealed.]

[ACTS 1-6.]

ACT 7.

AN ACT To allow assignees to maintain actions in their own names in certain cases.

SECTION 1. The assignee of any non negotiable chose in action, assigned in writing, may maintain thereon in his own name any action which, but for the assignment, might be maintained by the assignor; subject, however, to all equities and set-offs existing in favor of the party liable against the assignor, and which existed at the time of the assignment, or at any time thereafter, until notice thereof was given to the party liable.

ACT 8.

AN ACT Relating to stenographers, interpreters, and clerks for certain courts of the Territory of Hawaii.

SECTION 1. Authority is hereby conferred upon the first judge of the first judicial circuit and upon each of the circuit judges of the other circuit courts to appoint, with the approval of the chief justice of the supreme court, one or more stenographers and one or more interpreters for their respective circuits. Authority is hereby also conferred upon the district magistrate of Honolulu, in the island of Oahu, upon the district magistrate of South Hilo, in the island of Hawaii, and upon the district magistrate of Wailuku, in the island of Maui, respectively, to appoint, with the approval of the chief justice aforesaid, a clerk and one or more interpreters for each of said district courts. Each of the stenographers, interpreters, and clerks thus appointed shall hold office during the pleasure of the judge or magistrate by whom he is appointed, and shall receive for his services such salary as the legislature may from time to time appropriate therefor. Any one of the said circuit judges may temporarily assign to any stenographer or interpreter, appointed by him as aforesaid, any appropriate duties in any court of said republic other than the one in which he is located. Nothing herein contained, however, shall be held to prevent the employment by any one of the circuit judges or district magistrates aforesaid, without the approval of the chief justice aforesaid, of any stenographer, interpreter, or clerk to serve in individual cases as they may arise, when necessary.

[ACT 9.]

ACT 10.

AN ACT providing for the suspending of sentence in certain cases.

SECTION 1. Any judge of a court of record or district magistrate may, upon the motion of the attorney-general, or his deputy, or other

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duly qualified prosecuting officer, suspend the sentence of any person convicted of a crime or misdemeanor before the court over which such judge or magistrate is presiding, for any period not to exceed thirteen months from the date of the conviction of such person.

SECTION 2. At any time within thirteen months after the date of conviction of any person in respect to whom sentence has been so suspended, the court or magistrate having jurisdiction of the case shall, upon the request of the attorney-general, or his deputy, or other duly qualified officer, issue a summons citing such person to appear for sentence at the time and place in such summons stated. Should the person so cited fail to appear before the magistrate or court at the time and place named, the court or magistrate shall issue a warrant for the arrest of such person.

When such person shall so appear or be produced before the court in accordance with the terms of such summons or warrant, the court or magistrate shall proceed to impose sentence according to law. Such sentence shall thereupon be duly recorded and certified to the chief sheriff or his deputy in the order for imprisonment or other punishment, as the case may be.

If, in any case in which sentence has been suspended in accordance with the provisions of this act, sentence is not imposed within thirteen months from the date of conviction, the person so convicted shall not thereafter be liable to sentence on such conviction.

SECTION 3. For the purpose of this act the chief sheriff or deputy chief sheriff, any sheriff or deputy sheriff, shall be deemed to be a duly qualified prosecuting officer.

[ACT 11.]

ACT 12.

AN ACT to amend section 1, Chapter LVIII, of the Session Laws of 1892, entitled "An act to encourage the cultivation of coffee and ramie."

SECTION 1. Section 1, Chapter LVIII, of the Session Laws of 1892 is hereby amended to read as follows:

"Section 1. From and after the passage of this act, and for the term of ten years from the first day of July, in the year one thousand eight hundred ninety-eight, all coffee trees and ramie plants, and all coffee and ramie produced in this country, and all mills, machinery, appliances, tools, and buildings used exclusively in the care, cultivation, or preparation of coffee or ramie for market, shall be and hereby are exempted from all taxes."

[ACTS 13-16.]

ACT 17.

AN ACT making special appropriations for the immediate use of the government.

SECTION 1. The following sums, amounting to thirty-two thousand six hundred ($32,600.00) dollars, are hereby appropriated, to be paid out of any and all moneys in the treasury received from all the current receipts of the general revenue of the Territory of Hawaii.

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PUBLIC WORKS DEPARTMENT.

Roads and bridges, Oahu	$18,300.00
Roads and bridges, Kauai	9,200.00
Roads and bridges, Hana, Maui	1,000.00
Roads and bridges, Hamakua	1,000.00
Roads and bridges, Hilo	2,100.00
Roads and bridges, Keanae, Maui	1,000.00
	32,600.00

SECTION 2. The treasurer shall not cause or allow to be paid from the treasury any money for the objects named in this act except as herein provided, and the unauthorized expenditures of any money from the treasury to be thereafter accounted for to the legislature by indemnity bill is hereby expressly prohibited.

SECTION 3. All and every contract for constructing or repairing public works amounting to five hundred ($500.00) dollars, and for furnishing material, provisions, and other supplies, shall be awarded only upon public advertisement for tenders; and no public work, material, or supplies shall be divided or parceled out for the purpose of evading the provisions of this section.

SECTION 4. In the construction of all new roads or bridges and in the expenditure of all specific appropriations for repairing roads and bridges, it shall first be necessary that the road boards of the several districts in which such new work is contemplated shall approve of the same, and all such work shall be under the supervision of the road board of the district in which such new work is being carried on, and the final acceptance of all such work by the superintendent of public works shall be on the certificate from such road board that the same has been done in a good and workmanlike manner and as provided by the contract and specifications.

[ACTS 18-24.]

ACT 25.

AN ACT relating to and concerning vehicles, tires, and wheels.

SECTION 1. Every owner of a cart, dray, wagon, omnibus, stage coach, wagonette, or other vehicle used upon any public road, and which shall have been brought into the Hawaiian Islands or the construction of which shall have been completed after the thirtieth day of June, A. D. 1898, the axles of which are one and one-half inches or more in diameter, shall have tires and axles proportioned as stated below:

PROPORTION OF TIRES AND AXLES.

In the case of one-horse dump carts, without springs, the width of wheel tire shall be at least one and one-half times the diameter of the axle.

In the case of all other vehicles without springs, the width of wheel tire shall be at least double the diameter of the axle, except goose-neck drays, in which case the width of tire on the front wheels need not be over one and one-half times the diameter of the axle.

In the case of vehicles with springs, the width of wheel tire shall be at least one and one-half times the diameter of the axle.

In the case of vehicles with wooden axles, the width of wheel tire shall be at least the diameter of the axle.

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Other styles of axle shall have tires of same width as those of equal carrying capacity above specified.

SECTION 2. The front and rear axles of all vehicles mentioned in this act shall differ in length so that in progressing along a straight course the hind wheels shall not pass over the same ground passed over by the front wheels.

SECTION 3. Every person who uses upon any public highway or street in the Territory of Hawaii any cart, dray, omnibus, stage coach, wagonette, wagon, or other vehicle the wheels of which wagon or vehicle have tires of a less width than specified for such kind of wagon or vehicle in section 1, or whose axles do not conform to the provisions of section 2 of this act, shall be guilty of a misdemeanor.

SECTION 4. From and after the first day of July, A. D. 1901, every owner or driver of a cart, wagon, omnibus, stage coach, wagonette, or other vehicle used or driven upon any public street, road, or highway, even though brought into the Hiwaiian Islands or constructed previous to the thirtieth day of June, A. D. 1898, the wheels of which wagon or vehicle have tires of a less width than as specified and provided for such kind of wagon or vehicle in section 1 of this act, shall be guilty of a misdemeanor.

SECTION 5. Any person found guilty of a violation of any of the provisions of this act shall be fined in the penal sum of not less than ten dollars nor more than twenty-five dollars.

[ACTS 26–28.]

ACT 29.

AN ACT to convert land at Kaliu and Makiki, Honolulu, into free public recreation grounds and to maintain the same as such under the supervision of the minister of the interior.

SECTION 1. The following properties situated at Kaliu and Makiki, Honolulu, are hereby declared and made free public recreation grounds, to wit:

All that land at Kaliu, Honolulu, bounded and described as follows:

Begin at the intersection of the north line of the Nuuanu embankment and the east line of King street and run by the true meridian.

N. 1° 11′ 30″ E. 313 feet, more or less, along the east side of King street.

N. 85° E. 486 feet, more or less, along the Frear and Allen lots.

S. 39° 55′ 30″ E. 244 feet, more or less, along the makai side of Beretania street extension, thence by a curve to the right of radius 1,010 feet along the Nuuanu embankment, the direct bearing and length of chord being:

S. 72° 30′ W. 498 feet, more or less, to the end of curve;

S. 84° 15′ W. 174 feet, more or less, to the initial point. Area, 3.82 acres. The same to be called "River Park."

Also all that land at Makiki, Honolulu, bounded and described as follows:

Begin at a stone post marking the east corner of Keeaumoku and Kinau streets and run by the true meridian:

N. 21° 12′ E. 401.5 feet along Keeaumoku street;

S. 46° 25′ E. 479.0 feet along Lunalilo street;

S. 43° 35′ W. 238.0 feet along Makiki street;

N. 68° 48′ W. 353.4 feet along Kinau street to the initial point. Area, 2.96 acres. The same to be called "Makiki Park."

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SECTION 2. The superintendent of public works and his successors in office are hereby authorized and directed to convert all the property named in section 1 of this act in said Honolulu into free and public recreation grounds and to maintain the same as such for the use and benefit of the public.

ACT 30.]

ACT 31.

AN ACT to regulate the laundering of clothing, bed clothing, napery, towels, and other articles of like character.

SECTION 1. It shall be unlawful for any person to eject water or other fluid from his mouth upon any clothing, bed clothing, napery, towels, or other articles of like character, in preparing the same for ironing or pressing, or in ironing or pressing them.

SECTION 2. Any person so doing shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding ten dollars; and upon conviction of a subsequent offense shall be fined not exceeding twenty dollars.

ACT 32.]

ACT 33.

AN ACT authorizing the issuing of licenses to erect, maintain, and operate steam laundries in the district of Kona, island of Oahu.

SECTION 1. The treasurer, with the approval of the governor, may issue to any person, partnership, or corporation a license to erect, maintain, and operate a steam laundry within the district of Kona, island of Oahu, upon such conditions as to location and otherwise as shall be set forth in the license.

SECTION 2. Said license shall not be issued except upon the certificate of the board of health, setting forth that an agent of said board has examined the location at which it is proposed to operate said steam laundry, and that the same is suitable for the purpose.

SECTION 3. The annual fee for said license shall be fifty dollars.

SECTION 4. Said steam laundries shall be subject to such regulations as to sanitation as may be prescribed from time to time by the board of health.

ACT 34.

AN ACT to provide against the adulteration of food and drugs.

SECTION 1. That no person shall, within the Territory of Hawaii, manufacture, offer for sale, or sell any drug or article of food which is adulterated, within the meaning of this act.

SECTION 2. The term "drug," as used in this act, shall include all drugs, medicines, or medicinal preparations for internal or external use, antiseptics, antiseptic dressings, disinfectants, and cosmetics. The term "food," as used herein, shall include all articles used for food or drink by man, whether simple, mixed, or compound.

SECTION 3. An article shall be deemed to be adulterated within the meaning of this act:

(a) In the case of drugs—

(1) If, when sold under or by a name recognized in the United States Pharmacopœia, it differs from the standard of strength, quality,

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or purity laid down there n. (2) If, when sold under or by a name not recognized in the United States Pharmacopœia, but which is found in some other pharmacopœia, or other standard work on *materia medica*, it differs materially from the standard or strength, quality, or purity laid down in such work. (3) If its strength, quality, or purity falls below the professed standard under which it is sold. (4) If it contain any substance inimical or dangerous to life without the same being duly stated on the label or wrapper.

(b) In the case of food—

(1) If any substance or substances have been mixed with it so as to lower or depreciate or injuriously affect its quality, strength, or purity. (2) If any inferior or cheaper substance or substances have been substituted, wholly or in part, for it. (3) If any valuable or necessary constituent or ingredient has been wholly or in part abstracted from it. (4) If it is an imitation of or is sold under the name of another article. (5) If it consists, wholly or in part, of a diseased, decomposed, putrid, infected, tainted, or rotten animal or vegetable substance or article, whether manufactured or not, or, in the case of milk, if it is the produce of a diseased animal. (6) If it is colored, coated, polished, or powdered, whereby damage or inferiority is concealed, or if by any means it is made to appear better or of greater value than it really is. (7) If it contains any added substance or ingredient which is poisonous or injurious to health, or any deleterious substance not a necessary ingredient in its manufacture: Provided that the provisions of this act shall not apply to mixtures or compounds recognized as ordinary articles of food, if the same be distinctly labeled as mixtures or compounds, and are not injurious to health, and contain no ingredient not necessary to the preparation of a genuine article of such mixtures or compounds, and from which no necessary ingredient in its preparation is eliminated.

SECTION 4. Every person manufacturing, offering, or exposing for sale or delivering to a purchaser any drug or article of food included in the provisions of this act shall furnish to the duly appointed food commissioner, upon demand, either personal or in writing, a sample sufficient for the analysis of any such drug or article of food which is in his possession.

SECTION 5. Whoever refuses to comply, upon demand, with the requirements of section 4, and whoever violates any of the provisions of this act shall be guilty of a misdemeanor, and, upon conviction, shall be fined not exceeding one hundred nor less than twenty-five dollars, or imprisoned at hard labor not exceeding one hundred nor less than thirty days, or both. And any person found guilty under the provisions of this act of manufacturing, offering for sale, or selling an adulterated article of food or drug shall be adjudged to pay, in addition to the penalties hereinbefore provided for, all the necessary expenses incurred in inspecting and analyzing such adulterated articles of which said person may have been found guilty of manufacturing, selling, or offering for sale.

SECTION 6. To carry out the provisions of this act the board of health shall appoint a duly qualified food commissioner and analyst, who shall receive such a salary as the legislature shall from time to time appropriate, and who shall furnish good and sufficient bonds of not less than two thousand dollars ($2,000.00) for the proper and unprejudiced performance of his duties, and who shall be provided by the board of health with the necessary chemical and microchemical apparatus, together with a proper office and laboratory for work.

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SECTION 7. It shall be the duty of the food commissioner to carefully inquire into the quality of the several articles which are foods or the necessary constituents of foods, manufactured or for sale or sold or exposed for sale within the Territory of Hawaii, and he may in a lawful manner procure samples thereof, subject the same to careful examination, and report the result of such analysis of all or any of such food and drink products or dairy products as are adulterated, impure, or unwholesome, in contravention of the laws of the Territory of Hawaii, to the board of health, and it shall be the duty of the food commissioner, with the consent of said board of health, to make complaint, with the necessary evidence, through the proper authorities, against such manufacturer or vendor.

SECTION 8. The food commissioner, with the consent and sanction of the board of health, shall have power in the performance of his duties to enter into any creamery, factory, store, salesroom, storage room, drug store, or laboratory, or any place where he has reason to believe food or drink are made, prepared, sold, or offered for sale, and to open any cask, tub, jar, tin, bottle, case, or package containing or supposed to contain any article of food or drink, and examine or cause to be examined the contents thereof, and take therefrom samples for analysis.

SECTION 9. The food commissioner shall make a monthly report in writing to the president of the board of health, containing the results of inspection and analysis in detail; and upon the request of the said board he shall furnish for publication a popular explanation of the same covering any month or period, together with any such other information as may come to him in his official capacity relating to the adulteration of drugs and food and drink products, so far as the same may be deemed by said board of health to be of benefit and advantage to the public.

SECTION 10. The food commissioner shall investigate complaints on the information of any person who shall lay before him satisfactory evidence of the same.

SECTION 11. Jurisdiction is hereby conferred upon all district magistrates to hear and determine all cases arising under this act.

ACT 35.

AN ACT to prohibit the importation, sale, giving, or furnishing of foreign goods, wares, or merchandise stamped, marked, branded, wrapped, or boxed in such manner as to induce any person to believe that the same were grown, produced, or manufactured in whole or in part in the Territory of Hawaii.

SECTION 1. The importation into the Territory of Hawaii of any foreign goods, wares, or merchandise, stamped, marked, branded, wrapped, or boxed in such manner as to induce any person to believe that such goods, wares, or merchandise were grown, produced, or manufactured in whole or in part in the Territory of Hawaii, is hereby strictly prohibited; and whoever shall import, sell, give, or furnish, or cause to be imported, sold, given, or furnished any foreign goods, wares, or merchandise, stamped, marked, branded, wrapped, or boxed in such manner as to induce any person to believe that such goods, wares, or merchandise were grown, produced, or manufactured in whole or in part in the Territory of Hawaii, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in a sum not more than five hundred dollars, or imprisoned at hard labor for not more than six months in the discretion of the district magistrate.

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[ACTS 36-38.]

ACT 39.

AN ACT creating an auditor's department and to further regulate the receipt, custody, and disbursement of public moneys, and provide for the supervision of public accountants and audit of public accounts.

PART 1.—AUDITOR, DEPUTY AUDITOR, APPOINTMENT, OATH, TERM OF OFFICE, OFFICE HOURS, BOND, AND REMOVAL.

SECTION 1. The governor, with the approval of the senate, shall appoint an auditor, who shall hold office for a term of four years and until his successor is appointed and qualified: Provided, however, That he may be removed from office by the governor.

SECTION 2. There shall be appointed by the governor, with the approval of the senate, a deputy auditor, who shall hold office for a term of four years or until his successor is appointed and qualified, unless otherwise removed.

SECTION 3. The auditor and deputy auditor shall, before entering upon the duties or exercising the powers vested in them by this act, make and subscribe before one of the judges of the supreme court an oath of office or declaration in the form of Schedule A, hereto annexed, and every such oath or declaration shall be kept among the records of said court.

SECTION 4. The auditor and deputy auditor shall not use, exercise, or follow any other profession or employment whatsoever during their term of office, and they shall be paid such annual salary as the legislature may appropriate.

SECTION 5. In case of the illness, absence, or suspension of the auditor, the deputy auditor shall exercise the powers and perform the duties of the auditor.

SECTION 6. The auditor shall have an office in the executive building of the Territory, and he or his deputy shall be in said office daily during his business hours, which shall be from 9 o'clock a. m. to 4 o'clock p. m. on every day except Saturdays, when his business hours shall be from 9 o'clock a. m. to 12 o'clock m.; and further excepting Sundays and all legal holidays.

SECTION 7. The auditor and deputy auditor shall each give a bond for the faithful performance of their official duties of an amount and in a form as the governor may require and direct.

SECTION 8. The auditor and deputy auditor may be suspended or removed from office at any time by the governor for incompetence, misbehavior, abuse of authority, maladministration of office, or failure to perform the duties of the office for more than thirty days. Any vacancy occurring through death, resignation, removal, or suspension shall be filled by appointment of the governor, as prescribed in sections 1 and 2 of this act.

PART 2.—POWERS, WARRANTS, DUTIES, BOOKS, AND REPORTS.

SECTION 9. The auditor shall be the general accountant of the Territory, and it shall be his duty to audit and cause to be recorded every receipt and disbursement of money made to, by, or through the public treasury, and he shall have complete supervision of all government accounts; and, further, he shall have the power, by withholding his approval when necessary, to prevent the misappropriation of public

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funds, as well as the disbursement of public moneys in excess of specific appropriations.

SECTION 10. The auditor shall have power, with the approval of the treasurer, to establish throughout all departments and bureaus of the government a clear, methodical, and uniform system of public accounting and to enforce the said system; and, further, it shall be the duty of the auditor to make from time to time systematic and thorough inspection of the accounts of all public accountants, and make record of such inspection for the purpose of establishing and continuing said uniform system of keeping said accounts and enforcing the same.

SECTION 11. For all moneys paid into the treasury there shall be made and signed two receipts for said money which shall be alike, excepting that upon the face of one of them shall appear the word "original" and on the other the word "duplicate." Said receipts shall specify the amount, and from what person or officer received, and into what fund or what account deposited. On the stub of such receipt shall be entered a memorandum of the contents thereof, and the treasurer shall deliver both such receipts to the person or official paying said money into the treasury. Such officer or person shall forthwith present both receipts to the auditor, who shall countersign the original receipt and file the duplicate, after writing upon its face the day of its delivery to him, and charging the treasurer with the amount specified therein, and crediting the fund or account named thereon.

No such receipt shall be considered valid or binding as against the government of Hawaii unless so countersigned as hereinbefore provided.

SECTION 11B. Excepting moneys paid for the redemption of bonds of the national debt, and the interest coupons of the same, and for interest on overdue warrants and drafts against special deposits, and for expenses of the legislature, no money shall be drawn from or out of the treasury except upon warrants substantially in the form of Schedule "B" hereto annexed, issued from the auditor's office. Every such warrant shall be signed by the auditor or his deputy, and shall be made payable upon such date as may be approved by the treasurer to the order of the person or persons to whom the government is directly indebted.

SECTION 11C. All warrants for permanent settlements, stated and all other salaries, excepting that of the auditor and deputy auditor, shall be drawn by the auditor, payable to each individual to whom the government is directly indebted, except as provided for in section 11G, and the warrants shall be receipted therefor. No permanent settlements nor salary warrants shall be paid by the treasurer until the person in whose favor said warrant is drawn shall have endorsed his or her signature thereon.

The salaries of the auditor and deputy auditor shall be paid by the treasurer when due as hereinbefore provided, upon warrants approved by the governor.

SECTION 11D. Warrants for pay rolls of mechanics and laborers, or others temporarily employed, may be drawn in advance and before the wages as shown by the said pay rolls shall have been receipted for by said mechanics, laborers, and others; but in every such case such pay rolls shall have endorsed thereon the approval of the officer in whose department the liability or expense has been incurred and also the appropriation to which it is chargeable, and it shall also be specially certified to by the officer directly incurring the expense that

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the services charged for have been faithfully performed; and further, the auditor shall take a receipt from the disbursing officer in whose favor such warrant for said pay rolls has been drawn, and shall retain said receipt until said pay rolls shall have been properly receipted and returned to him, and under no circumstances shall the auditor hold more than one such receipt from the same disbursing officer for pay rolls under the same item of appropriation.

SECTION 11E. Warrants for bills of material, supplies, and incidentals of every kind and character whatsoever shall be made payable to the order of each individual party to whom the government is indebted, except as provided in section 11G, and only after a detailed statement of all such bills shall have been presented to the auditor, accompanied by all original vouchers. Said statement shall have endorsed thereon the approval of the officer in whose department the liability or expense has been incurred and the appropriation to which it is chargeable; and further, each original voucher shall be specially certified to by the subordinate officer of the government directly incurring such liability or expense, and that all such materials, supplies, and incidentals have been received in good order and condition.

SECTION 11F. All warrants for bills on account of government contracts, either as a whole or in part, shall be made payable to the order of the party or parties to whom the government is directly indebted, except as provided in section 11G, and only after all such bills shall have endorsed thereon the approval of the officer in whose department such contracts shall have been made, and also specially certified to by the subordinate officer of the government supervising the work performed, or receiving the materials and supplies as specified in said contracts, that the work has been faithfully performed and that the materials and supplies were in a good and merchantable condition when received; and no such warrant shall be issued unless a copy of such contract or bid shall have been filed with the auditor, together with a statement by the head of the department or bureau that made such contract or accepted such bid, naming the appropriation to which such contract or bid is to be chargeable.

SECTION 11G. In case the individual party to whom the government is directly indebted shall indicate in writing over his signature on the back of his bill or receipt the name of any person to whose order he may wish the amount of said bill paid, it shall be lawful for the auditor to draw the warrant for such amount payable to the order of the person so indicated.

SECTION 12. The auditor shall keep a complete set of double-entry books in which he shall open or cause to be opened all government accounts, and for the several amounts as shown by the appropriation bill, or any other appropriation that may be at any time made by the legislature, and he shall record his daily business transactions in detail therein. He shall also keep a ledger in which he shall open, arrange, and keep in a methodical and systematic manner the various government accounts, so that the status and condition of any appropriation and the receipts and disbursements of the government may at any time be ascertained and known; and, further, he shall keep books, to be known as the "warrant books," of different colored paper or designs, for each separate department and bureau, each containing warrants to be numbered from one up to the number required for the current biennial period, and in the form as shown in Schedule "B," hereto annexed, and all such other auxiliary books as he may deem necessary for a correct and proper administration of his office.

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He shall also keep on file in a convenient form, for easy reference, all bills and vouchers for which warrants have been drawn by him, and said bills and vouchers shall have endorsed thereon the number of the warrant by which they were paid, the date of the warrant, the appropriation to which they were debited, and the amount.

SECTION 13. The auditor shall send, or cause to be sent, to the treasurer, at or before the end of each day on which the audit office is open for business, or oftener if deemed best, a statement of all warrants drawn by him upon the treasury during the day in the form of Schedule "C," hereto annexed.

SECTION 14. The auditor, upon receipt by him of the returns required to be furnished by public accountants receiving or collecting moneys as hereinafter provided, shall examine and compare the same with the cash receipts and with the accompanying vouchers and documents, if any, and shall allow and discharge every public accountant for all sums shown to have been by him respectively received or collected and duly paid into the treasury, and shall disallow and surcharge such public accountant for all sums wilfully or negligently omitted to be received or collected by him which under any law or regulation it was his duty to receive or collect, and all sums not only duly paid in by him to the credit of the proper head of receipts in said office, and all such unsatisfied surcharges shall be by him enforced against said public accountant.

SECTION 15. In the examination of all government accounts and statements, and all other documents produced as vouchers, or as subordinate vouchers, the auditor shall make such queries and observations addressed to public accountants, officers certifying accounts, or persons in any way concerned with the receipt or disbursement of the moneys or funds referred to in this act, and shall call for such further accounts, vouchers, statements, and explanations as he may think necessary; and after such queries and observations have been answered, and after such further accounts and explanations have been rendered, the auditor shall disallow and surcharge all sums not duly credited to the proper fund and paid into the treasury, and shall disallow and surcharge all sums disbursed in excess or not duly vouched and authorized against such public accountant, officers certifying accounts, or other persons through whose default such surcharges have arisen, and until such failure shall have been made good to the satisfaction of the auditor all salary or other moneys that may be due and payable to such public accountant or other person shall be withheld.

SECTION 16. In case of any question or difference of opinion arising between the auditor and any officer of the government regarding the proper appropriation to which any item or amount of expense shall be charged, or any other matter regarding the construction of this act or the authority vested in either of them by said act, and in all cases where a sum of money shall be disallowed by the auditor in consequence of the absence of a written voucher, or upon an imperfect voucher or an incorrect certificate, or if any person or public accountant feel aggrieved by any decision of the auditor in the rejection or the surcharge of the returns, or refusal to approve or allow any demand presented by such public accountant or person, any of the parties concerned may appeal from such decision to the justices of the supreme court, who, after such investigation as shall by them be considered equitable, may make such order directing the relief of the appellant, in whole or in part, as shall appear to the said justices to be just and reasonable, and the decision of the said justices shall be

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final and binding upon all parties and they shall govern themselves accordingly. If the demand of the officers, bill, claim of any person, or the return of any public accountant be approved, in whole or in part, by the said justices, they shall so endorse their findings on the same and it shall thereafter be presented to the auditor, who shall enter it in the proper book in like manner as other demands, and an endorsement must be made by the auditor of its having been so entered before it can be paid.

SECTION 17. The auditor shall not recognize any claim of whatsoever nature unless a written statement or voucher be presented for the same. No warrant shall be issued in payment for any claim except upon proper endorsement of such voucher, notwithstanding any allegation of papers having been lost or destroyed or of the impossibility of obtaining the prescribed voucher, so that it could not reasonably be obtained, except on application to one of the justices of the supreme court at chambers, who, after summoning the auditor and such other persons as he may think fit, may, upon evidence satisfactory to him that the requisite papers have been lost or destroyed, or that it is impossible or impracticable to procure them, prescribe a form of voucher, which, bearing the approval of such justice, shall then be received by the auditor and filed as hereinbefore provided; and all such substitute vouchers shall be considered binding on the government and all other parties.

SECTION 18. When a voucher produced for a sum of money disbursed shall be defective from the want of any certificate or other document which ought to have accompanied it, it shall be lawful for the auditor, upon proof being made to his satisfaction that the public accountant did not willfully neglect to procure such certificate or document, and that the sum specified in the voucher has been actually and properly disbursed, to admit such voucher as sufficient discharge of the said public accountant and to allow the amount of same to his credit.

SECTION 19. The auditor shall publish, in some newspaper or newspapers printed in the Territory in the English or Hawaiian language, monthly and annual comparative statements of the finances of the government of Hawaii.

SECTION 20. The auditor shall make an annual report to the governor and biennial report to the legislature. It shall be lawful for the auditor in such yearly report, or in any special report which he may at any time think fit to make, to recommend any plans and suggestions that he may think fit or worthy of adoption for the better collection, custody, and payment of the public moneys and the more economically auditing and examining the public accounts, and any improvements in the mode of keeping such accounts that may at any time be brought to his notice, and generally to report upon all matters relating to public accounts.

SECTION. 21. The auditor is hereby authorized and empowered by precept under his hand in the form contained in schedule "D," hereto annexed, to require all such persons as he may think fit to appear personally before him at any time and place to be named in such precept, and to produce to him all such accounts, books, and papers in the possession or control of such persons as shall appear to be necessary for the purpose of their examination. It shall also be lawful for the auditor, when he shall so occasion, to cause search to be made and extracts to be taken from any book, paper, or record in the custody of any public officer without paying any fee for the same; and

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it shall be the duty of every officer having the custody of any such book, paper, or record to make such search and furnish such extracts as thereto requested.

SECTION 22. The auditor is hereby authorized and required to examine upon oath (which oath he is hereby empowered to administer) all persons whom he shall think fit to examine touching the receipts and expenditures of money, and touching all other things and matters necessary for the due execution of the powers vested in him by this act.

SECTION 23. The auditor shall keep in his office in a convenient form for easy reference, a correct list of all government permanent settlements, specific salaries, pay rolls, subsidies, rents, contracts, and all bids for material and supplies, and prices current wholesale and retail of same; and in auditing all bills for service rendered or merchandise supplied, or other bills against the government, he shall compare all rates and prices charged with the list aforesaid, and strike out or surcharge all amounts in excess of the current rates and prices, as shown by the said list, or that in his judgment are excessive.

SECTION 24. The auditor shall perform such other duties pertaining to his office as the legislature may require or direct.

SECTION 25. The treasurer shall keep in his office a cash book, in which shall be entered up all sums received and paid out of the treasury on account of the several departments and bureaus of the Territory.

SECTION 26. Every lawful demand upon the treasury, duly audited as hereinbefore provided, shall in all cases be paid upon the date authorized by the treasurer and enfaced thereon, if there be sufficient funds at that time in the treasury applicable to the payment of such demand; and upon payment all warrants shall be canceled and proper entry be made thereof, but if there be not sufficient moneys so applicable, then such warrant shall be registered in a book kept for that purpose by the treasurer.

Such register shall show the number of the warrant, by whom presented, the date, amount, name of original payee, and on what account allowed. Upon being so registered, it shall be returned to the party presenting it with the endorsement of the word "registered," dated and signed by the treasurer, and such registered warrant shall be entitled to, and draw interest from the date of registration until paid, at the rate of five per cent per annum; but the registration of any such demand shall not operate in any manner to recognize or make valid such demand if obtained in contravention to any law or through any error.

SECTION 27. Warrants shall be paid by the treasurer as far as practicable in the order of their number and date of issue, and whenever in his judgment there are sufficient funds in the treasury, he shall issue a call for outstanding registered warrants in the order of their numbering and date of issue. Such call shall be made by publication for one week in two or more daily newspapers in Honolulu published in the English and Hawaiian languages, and interest shall cease upon all such called warrants ten days after the publication of the first notice.

SECTION 28. Unless otherwise provided by law all sums of money which shall be appropriated to the public service for any biennial period, and which shall not be expended during such period, shall lapse, and shall not be issued or applied in any future biennial period to the particular service for which the appropriation shall have been

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so made, unless a contract or engagement shall have been made and entered into before the expiration of such biennial period by which a liability so to issue or apply the same shall have been incurred, and a certified copy of which contract or engagement shall have been deposited with the auditor.

PART 3.—PUBLIC ACCOUNTANTS AND ACCOUNTING FOR THE COLLECTION AND PAYMENT OF PUBLIC MONEYS.

SECTION 29. All persons who, by any law, regulation, or appointment are now, or shall hereafter, be charged with the duty of collecting or receiving revenue or other moneys on account of the government of Hawaii, or with the duty of disbursing moneys on account of the public service shall become and be "public accountants," and shall perform all such duties and render such accounts as this act prescribes, and as the treasurer and auditor shall from time to time direct.

SECTION 30. Every such public accountant collecting or receiving revenue or other moneys aforesaid in Honolulu shall pay weekly, or at such times as may be otherwise specially appointed, into the treasury all sums of money collected or received by him on account of the revenue or otherwise as aforesaid, accompanied by vouchers bearing his signature, and which such sum shall have been collected or received, and unless otherwise specially directed, shall not later than the tenth day after the expiration of each month, transmit to the auditor a return in the form contained in Schedule "E," hereto annexed, with such particulars in each case as may be required by the auditor, of all moneys collected or received by him during the preceding month, and shall make and subscribe to an oath in the form prescribed in this schedule.

SECTION 31. Every such public accountant collecting or receiving revenue or other moneys as aforesaid out of Honolulu shall transmit or pay monthly or at such times as may be otherwise specially appointed into the treasury all sums of money collected or received by him on account of the revenue or otherwise as aforesaid, accompanied by vouchers bearing his signature, and containing a full and accurate description of the services for which such sums shall have been collected or received, and unless otherwise specially directed shall on or before the fourteenth day after the expiration of each month transmit to the auditor, by post or otherwise, a return in the form contained in Schedule "E" to this act, with such particulars in each case as may be required by the auditor, of all moneys collected or received by him during the preceding month, and shall make and subscribe to an oath in the form prescribed in such schedule.

SECTION 32. On the death, resignation, or removal of any such public accountant the balance of public moneys remaining in his hands shall, upon the appointment of his successor, unless otherwise directed by law, vest in such successor, and shall not in the event of death of any public accountant constitute assets of the deceased or be in any manner subject to the control of his legal representative.

PART 4.—MISCELLANEOUS PROVISIONS.

SECTION 33. The auditor, by and with the approval of the governor, is hereby authorized to make and publish such regulations not inconsistent with this act as may be found necessary to carry out the object and provisions of this act, and for the more effectual record, check,

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and audit of all receipts and disbursements of public moneys; and such regulations shall, after publication in one or more newspapers printed and published in Honolulu, have the force and effect of a statute law.

SECTION 34. Any public accountant or person who shall fail or neglect to conform to any of the regulations contained in this act, or to attend the said auditor for the purpose of being examined or to produce any accounts, books, vouchers, or other documents, or to answer any other lawful question when required so to do by the said auditor, shall be liable to a penalty of not less than twenty-five dollars nor more than one hundred dollars on conviction before any district magistrate.

SECTION 35. If any person shall, in the course of his examination before the said auditor, wilfully and corruptly give false evidence, such person so offending shall incur the same penalties as are or may be provided against persons convicted of perjury.

SCHEDULE A.

I, ———, do solemnly swear that, according to the best of my skill and ability, I will faithfully, impartially, and truly execute the office and perform the duties of auditor (or deputy auditor).

Signature: —— ——.

SCHEDULE B.

TREASURY WARRANT.

OFFICE OF THE AUDITOR,
Honolulu, H. I., ———, *189–*.

On the —— day of ———, 189–, please pay to the order of ——— the sum of ——— dollars, for and charge the same to ———.

—— ——, *Auditor.*

To the TREASURER, *Honolulu, H. I.*

SCHEDULE C.

OFFICE OF THE AUDITOR,
Honolulu, H. I., —— –, *189–*.

To the TREASURER, *Honolulu, H. I.*

DEAR SIR: I beg to hand you herewith a statement of warrants drawn upon the treasury since my last advices, as follows:

Date.	Number.	Appropriation.	To whom payable.	Amount.

—— ——, *Auditor.*

SCHEDULE D.

To———

By virtue of the authority vested in me by an act entitled "An act creating an auditor's department," &c., you are hereby required to appear before me at ——— on ———, and to bring with you for the purpose of examination a certain book (or as the case may be), and to be examined by and before me touching and concerning matters required to be investigated by me pursuant to the provisions of the said act.

Witness my hand this —— day of———, 18—.

—— ——,
Auditor.

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SCHEDULE E.

Accounts of all moneys collected by ——— as ——— from the —— day of ——— to the —— day of ———, 189—, both days inclusive:

Date of receipt.	From whom received.	On what account.	Amount.
Total			

SETTLEMENT OF THE ABOVE COLLECTIONS WITH THE TREASURER.

Date of deposit or remittance.	Head of receipt on account of which remittance is made.	Amount.
Total		

———— ————,
Public Accountant.

I, ———, do solemnly swear that the above is a true and faithful account of all moneys collected by me as above specified, and that I have paid over the whole amount to the treasurer.

———— ————,
Public Accountant.

Sworn to this —— day of ———, 18—, before me.

———— ————.

[ACTS 40-42.]

ACT 43.

AN ACT to authorize the Government of Hawaii to acquire and preserve ancient Heiaus and Puuhonuas or the sites or remains thereof.

SECTION 1. The superintendent of public works is hereby authorized to acquire and preserve for and in behalf of the Government of Hawaii ancient Heiaus and Puuhonuas or the sites or remains thereof throughout this Territory, and to that end is hereby authorized to condemn the same and approaches thereto whenever they can not be acquired by mutual agreement with the owners of the land upon which the same may be located.

SECTION 2. The sum of $2,500.00 is hereby appropriated out of any funds in the public treasury lawfully available to be spent by the superintendent of public works for the purposes of this act.

SECTION 3. If condemnation becomes necessary, the method of procedure shall be such as is prescribed by civil laws, chapter 99.

SECTION 4. The superintendent of public works, with the approval of the governor, is hereby authorized to promulgate all necessary or proper rules for the preservation and management of the property aforesaid when acquired, and to regulate the admission and control of all persons visiting or entering the same.

All such rules, when promulgated by publishing in some newspaper

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published in Honolulu or on the island where the property is situated and by posting in a conspicuous place on the premises, shall have the force and effect of law.

SECTION 5. Any person violating any rules so promulgated shall be liable, upon conviction before any district magistrate, to a fine not exceeding $50.

[ACT 44.]

ACT 45.

AN ACT relating to corporations and incorporated companies organized under the laws of foreign countries and carrying on business in this Territory.

SECTION 1. Every corporation or incorporated company formed or organized under the laws of any foreign State, which may be desirous of carrying on business in this Territory and to take, hold, and convey real estate therein, shall file in the office of the treasurer—

1. A certified copy of the charter or act of incorporation of such corporation or company.

2. The names of the officers thereof.

3. The name of some person upon whom legal notices and process from the courts of this Territory may be served.

4. A certified copy of the by-laws of such corporation or company.

SECTION 2. Every such corporation or company, on complying with the provisions of section 1 of this act and paying to the treasurer a fee of fifty dollars, shall, subject to the provisions of section 5 hereof, have the same powers and privileges and be subject to the same disabilities as are by law conferred on corporations constituted under the laws of this Territory, and shall, for the purposes for which they shall be constituted, have full power to hold, take, and convey by way of sale, mortgage, or otherwise, real, personal, and mixed estate in this Territory: Provided always, That the purposes for which such corporation or company shall be constituted thall not be repugnant to or in conflict with any law of this Territory: Provided further, That nothing herein contained shall be construed to give any such corporation or company any of the special powers conferred by law upon railroad or banking corporations constituted under the laws of this Territory.

SECTION 3. Every such corporation or company carrying on business in the Hawaiian Islands shall, on the first day of July of each year, file with the treasurer a statement of all matters which are or may be required by law to be filed by Hawaiian corporations.

SECTION 4. The said treasurer shall have power at any time, either by himself or by one or more commissioners appointed by him, to call for the production of the books and papers of any foreign corporation doing business in the Hawaiian Islands, and to examine its officers, members, and others touching its affairs, under oath; and the said treasurer may, in his discretion, lay before the governor and also publish the said annual reports and statement of such examination.

SECTION 5. In case any such corporation shall refuse or fail to present such annual exhibit of its affairs to the treasurer, or to produce its books and papers upon the request of the treasurer, or of the commissioner or commissioners appointed by him, or in case any of the officers or members of such corporations shall refuse to be examined on oath touching the affairs of the same, the treasurer or the commissioner or commissioners may apply to a court of chancery for an order to compel the production of such books and papers, or the exam-

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ination of such officers and members thereof, and the court may enforce obedience to which order as in the case of its ordinary decrees and orders; and such corporation shall be denied the benefit of the laws of the Territory, particularly the statute limiting the time for the commencement of civil actions, and shall not be entitled to sue in any court of the Territory for any cause of action whatever, while such neglect or refusal continues.

ACT 46.

AN ACT relating to certain agreements of sale under the provisions of the homestead act of 1884 and its amendments.

WHEREAS certain agreements of sale under the provisions of the homestead act of 1884 and its amendments have been made between the minister of the interior and applicants for land situate in the district of North Kona, island of Hawaii, under the said homestead act, whereby two lots of kula land were agreed to be conveyed to the several applicants contrary to the said statute;

AND WHEREAS certain of the said applicants have performed the said agreements of sale and have received land patents for such two lots each, contrary to such statute;

AND WHEREAS others of the said applicants have performed, or partially performed, the stipulations of the said agreements of sale to be performed by them:

SECTION 1. All such land patents received by the parties to such agreements of sale as aforesaid are hereby ratified and confirmed.

SECTION 2. The governor and commissioner of public lands are hereby authorized to execute and deliver, to those of the said applicants who have performed or shall hereafter perform the stipulations of such agreements of sale to be performed by them, land patents for such two lots, respectively.

[ACTS 47-48.]

ACT 49.

AN ACT to further provide for the payment of current accounts.

WHEREAS it is expedient that authority should be given to the treasurer to secure funds temporarily on loan by way of a bank overdraft: Now, therefore:

SECTION 1. The treasurer, with the approval of the governor, is authorized during each biennial period to open a bank account or bank accounts, in the name of the government of Hawaii, with any bank or banks or financial institution carrying on business in Honolulu, and from time to time during each such period to receive on loan by way of overdraft on such account or accounts, such sums of money, not to exceed in the aggregate $150,000 at any one time, as the said treasurer and the governor may deem necessary to meet the current expenses of the said government.

SECTION 2. The moneys borrowed by authority of this act shall be repayable by the treasurer upon his tender of the same, together with interest not exceeding six per cent per annum in gold coin of the United States of America.

SECTION 3. No money shall be obtained on such account or accounts except against departmental drafts or orders on the treasury of an equal amount duly accepted by the treasurer.

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SECTION 4. All moneys received under the authority of this act shall be paid out and used only for the current expenses under appropriations made by the legislature, as aforesaid, of the government; and such moneys shall be repayable, and the interest thereon shall be paid out of the current revenue of the government as provided by the legislature.

ACT 50.

AN ACT to establish a marine park on the east side of Honolulu Harbor.

SECTION 1. The superintendent of public works is hereby authorized to reserve that portion of the reef lying southeasterly from the entrance channel of the harbor of the port of Honolulu, hereinafter described in section 3, as a free, public marine park, and to add to such reservation from time to time such other adjoining reef land as may be conveyed to the government for such purpose by the trustees of the estate of Bernice Pauahi Bishop, or others.

SECTION 2. The superintendent of public works is hereby further authorized to enter into an agreement with the trustees of the Bernice Pauahi Bishop Museum, whereby they shall be authorized to establish and maintain within the said marine park, a free public marine aquarium and a marine zoological laboratory, with the privilege, under the direction of the superintendent of public works, of erecting and maintaining the necessary structures, appliances and apparatus therefor, including a wharf for watercraft to be used in connection with such aquarium and laboratory.

SECTION 3. From the government survey station "Channel A" on the sea wall, from which point "Punchbowl A" bears N. 51° 18′ E. true, the boundary runs by true meridian:

N. 39° 00′ E. 600 feet along the outer edge of the sea wall;

S. 46° 45′ E. 850 feet along government property across the reef;

S. 62° 43′ W. 750 feet along the outer edge of the sea wall to the government survey station, "Sea wall A."

N. 51° 00′ W. 400 feet along the upper edge of the sea wall to beginning of curve;

Thence by a curve to the right of radius 150 feet, following the outer edge of the sea wall to the initial point; including an area of 11 54-100 acres.

[ACTS 51, 52.]

ACT 53.

AN ACT relating to public cemeteries.

SECTION 1. The superintendent of public works is hereby authorized from time to time to establish such public cemeteries, or places for burial, in the several districts of the Territory as he shall deem necessary.

For this purpose he may set apart such portions of the public lands as he shall deem necessary, and, with the approval of the governor, purchase suitable lands or interests in lands from private owners.

SECTION 2. Said superintendent may from time to time, with the approval of the governor, transfer and convey to any cemetery corporation or organization the property so set apart or acquired in any

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district, or any portions of such property, to be held or managed as a public cemetery or cemeteries, upon such terms and conditions as he shall, with such approval, determine.

SECTION 3. The provisions of this act shall not be construed to conflict with the authority imposed by law upon the board of health to make regulations for the interment of the dead, and respecting cemeteries and burying grounds, or to protect the public health.

[ACT 54.]

ACT 55.

AN ACT to regulate the opening of streets on private lands in the district of Kona, island of Oahu, and the town of Hilo, island of Hawaii.

SECTION 1. In case the owner of private land situate in the district of Kona, island of Oahu, or the town of Hilo, island of Hawaii, shall desire to open a street or streets for the use of the public on such land connecting with the street system of said district or town, it shall be incumbent on him to first submit to the superintendent of public works a chart and description of such proposed street or streets, giving accurately the location, extension, width, nature of construction, and finish.

SECTION 2. The superintendent of public works shall upon receiving such application examine the proposed location of such street or streets, and shall thereafter deliver to such applicant his written decision in regard to the proposed street or streets, approving or disapproving the same or recommending a modification of the plans therefor.

SECTION 3. No such street shall be accepted by the government unless the same is laid out, constructed, and finished in accordance with plans approved by the superintendent of public works, and a deed of conveyance thereof executed and delivered in favor of the government and accepted by it.

SECTION 4. No street opened upon private land in said district or town shall be considered to be for the use of the public unless both ends thereof communicate with the public system of streets; and for the purpose of this act, if each of two intersecting streets on or proposed for any such private land communicate independently with the public system of streets at one of their respective termini, such part of such two intersecting streets as make a continuous passage into and out from such private land shall be considered as one street in the meaning of this act.

[ACTS 56, 57.]

ACT 58.

AN ACT making special appropriations for the departmental use of the government during the two years which will end with the 31st day of December in the year 1899.

SECTION 1. The following sums, amounting to $2,289,581.50, are hereby appropriated, to be paid out of all the moneys in the treasury received from all the current receipts of the general revenues of the Territory of Hawaii for the biennial fiscal period commencing with the

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first day of January, 1898, and ending with the 31st day of December, A. D. 1899:

DEPARTMENT OF THE JUDICIARY.

Expenses supreme and circuit courts	$33,000.00
Purchase of law books, supreme court	1,200.00
Purchase of law books for circuit courts other than first circuit	500.00
Compiling, printing, and binding Hawaiian Reports	3,200.00
Stationery and incidentals	1,800.00
Compiling and publishing penal and civil laws	2,675.50
	42,375.50

DEPARTMENT OF FOREIGN AFFAIRS.

Incidentals, foreign office	$3,000.00
Expenses connected with diplomatic and consular service	15,000.00
Expenses Hawaiian consulate, San Francisco	3,600.00
State entertainments and ceremonies	3,000.00
Expenses executive council	600.00
Furnishing information abroad	5,000.00
Relief and return of indigent Hawaiians	3,000.00
Expenses council of state	100.00
Relief of Hawaiian seamen	1,000.00
Support of military	60,000.00
New instruments for band, Honolulu	1,705.00
Expenses of exhibit at Trans-Mississippi Exhibition at Omaha	3,500.00
Erecting two tombstones over the graves of Privates Anderson and Husberg	150.00
	99,655.00

TREASURY DEPARTMENT.

Incidentals, treasury office	$3,500.00
Incidentals and traveling expenses, auditor's office	6,000.00
Printing revenue stamps, etc	500.00
Interest on all loans and advances, including commissions on remittances to London	585,000.00
For the purchase and expense of coinage of dimes and nickels	15,000.00
Expenses taxation commission	5,000.00
Transfer from sinking fund to land sales, special deposit	29,457.48
Reimbursement of A. K. Kunuiakea	5.50
	644,462.98

CUSTOMS BUREAU.

Incidentals, customs bureau	$10,000.00
Expenses of pilot and customs boat	2,500.00
Steam launch	5,000.00
Special-service fund	5,000.00
	22,500.00

POSTAL BUREAU.

Incidentals, postal bureau	$17,000.00
Special mail carriage (foreign)	15,000.00
Postal money-order capital	3,500.00
Mail subsidy, Wilder's S. S. Co	3,000.00
Mail subsidy, Inter-Island S. N. Co	3,000.00
Extra inter-island mail service	2,000.00
	43,500.00

TAX BUREAU.

Tax appeal boards	$1,500.00
Dog tags	500.00
Incidentals, tax office	8,000.00
	10,000.00

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DEPARTMENT OF THE ATTORNEY-GENERAL.

Support and maintenance of prisoners	$80,000.00
Incidentals, civil and criminal expenses	30,000.00
Coroners' inquests	5,000.00
Expenses of witnesses in criminal cases	7,000.00
Detective service	13,000.00
Support of citizens' guard	8,000.00
Patrol wagon and equipments	1,200.00
	144,200.00

DEPARTMENT OF PUBLIC INSTRUCTION.

Industrial and reform schools		$10,000.00
Expenses industrial and manual training		2,000.00
Expenses of teachers' convention		2,500.00
Book fund		8,000.00
Stationery and incidentals		8,000.00
Repairing schoolhouses		15,000.00
Furniture and fixtures		4,000.00
Support of Lahainaluna School		4,000.00
New schoolhouses and teachers' cottages, as per following schedule:		
Island of Hawaii	$25,000.00	
Island of Maui	7,000.00	
Island of Oahu	48,000.00	
Island of Kauai	3,000.00	
		83,000.00
		136,500.00

COMMISSION OF PUBLIC LANDS.

Incidentals	$5,000.00
Preliminary roads and trails	7,000.00
	12,000.00

BUREAU OF SURVEY.

Expenses of survey and field work to include all work done by the public lands commission	$45,000.00
Office expenses, instruments, publishing maps, etc	2,000.00
Meteorology and tide gauge	1,200.00
	48,200.00

BUREAU OF CONVEYANCES.

Incidentals	$550.00

BUREAU OF IMMIGRATION.

Incidentals and traveling expenses	$2,500.00

BUREAU OF WATERWORKS.

Running expenses	$7,500.00
Repairs to reservoirs	8,000.00
General repairs	12,000.00
Running expenses, pumping plants	25,000.00
Running expenses, market	1,000.00
Hilo waterworks	700.00
Laupahoehoe waterworks	300.00
Koloa waterworks	200.00
Water pipes for Waiohinu, Kau, Hawaii	500.00
Water filtration investigations	1,500.00
Nawiliwili waterworks	2,500.00
	59,200.00

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BUREAU OF PUBLIC WORKS.

Incidentals and traveling expenses	$2,200.00
Traveling expenses, road engineer, to be accompanied with vouchers	1,200.00
Repairs, furniture, and additions to government buildings	45,000.00
Fire station and apparatus Kulaokahua	7,000.00
Landings and buoys, Hawaii	3,000.00
Wharf shed Hookena, South Kona	200.00
Wharf shed Napoopoo, South Kona	200.00
Extension of wharf Hookena, South Kona	800.00
Extension of wharf Keauhou, North Kona	500.00
Landings and buoys, Maui	2,500.00
Extension wharf Hana, Maui	500.00
Dredging Lahaina Landing	1,000.00
Extension of Kihei wharf	1,200.00
Landings and buoys, Molokai	3,000.00
Landings and buoys, Honolulu	25,000.00
Landings and buoys, outer districts, Oahu, including Pearl Harbor	1,000.00
Landings and buoys, Kauai	2,000.00
Landings and buoys, general	5,000.00
Light-house supplies	2,000.00
Steam tug	10,000.00
Dredging Honolulu Harbor	20,000.00
Removing powder magazine	7,500.00
	140,800.00

ROADS AND BRIDGES, HAWAII.

Curbing and paving government sidewalks, Hilo	$2,400.00
North Hilo	2,500.00
Road from Laupahoehoe to Kiilau	2,500.00
Hilo	15,000.00
Stone culvert across Pohakunanaku, Hilo	2,000.00
Purchase of road roller, Hilo	5,000.00
Puna	10,000.00
Road through Nanawale and Kaohe homesteads, Puna	1,200.00
New road from Pahoa to Rycroft's road, Puna (unpaid bills)	266.94
To complete road from Koae to Kamaili, Puna	1,000.00
Kau	4,000.00
Road to Ninole homesteads, Kau	2,000.00
South Kona	3,000.00
Widening and repairing road between Kaohe and Alika, South Kona	2,500.00
North Kona	3,000.00
Beach road, Kailua to Keauhou	500.00
Widening and repairing beach road Hookena to Napoopoo, South Kona	400.00
South Kohala	2,000.00
Bridge across Waimea stream, Hawaii	500.00
North Kohala	1,500.00
Hamakua	2,500.00
Regrading main road and roads to landings, Hamakua	22,000.00
Kaauhuhu homestead roads, Hamakua	2,500.00
Ahualoa homestead road, Hamakua	8,000.00
Kalopa homestead road, Hamakua	4,000.00
Paauilo homestead road, Hamakua	6,000.00
Kaala homestead road, Hamakua	5,500.00
Piihonua road, Hilo	7,500.00
Kapakuea road, Hilo	7,500.00
Road from Honokane-iki landing to government homesteads at Awini	3,000.00
	129,766.94

ROADS AND BRIDGES, MAUI.

Lahaina	$1,000.00
Wailuku	2,000.00
Makawao	2,000.00
Regrading road, Kokomo, Makawao, to Halehaku, Huelo, Maui	3,500.00
Culvert across Kawaipapa stream, Maui	300.00

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Hoads, Hana district	$2,500.00
Kahikinui, Hana, Maui	1,000.00
Purchase of rock crusher for district of Hana	2,000.00
Pay survey road from Hanawi, Koolau, to Kailua, Huelo, Maui (unpaid bills)	500.00
To complete homestead road from Makena to Kula	5,000.00
Road from Olowalu to Maalaea Bay	2,500.00
Bridge at Olowalu	600.00
Road from Honolua to Kahukuloa	3,000.00
	25,900.00
Roads and bridges, Molokai	2,500.00
Road from Keoele to Awalua landing, Lanai	500.00
Road from Puuko to Halawa, Molokai	3,000.00
	6,000.00

ROADS AND BRIDGES, OAHU.

Honolulu	$100,000.00
Nuuanu road to Pali	30,000.00
These appropriations are conditioned upon the payment into the treasury as Government realization of the road tax for the district of Kona, Island of Oahu.	
Macadamizing streets at Kaluaopalena, Kalihi	1,000.00
Repairs to Houghtailing lane	300.00
Macadamizing road, Moanalua to Kapukaki	500.00
Macadamizing Union street, including road damages	6,000.00
Repairing and widening Waialae road and extension	2,500.00
Repairing and macadamizing Campbell avenue and Monsarrat road	2,000.00
Widening and macadamizing road from Keoneula, on King street, to insane asylum, including road damages	5,000.00
Enlarging and repairing Aala road	500.00
Repairs Wyllie street	400.00
Widening King street east of Kalihi bridge and new bridge	2,000.00
Macadamizing River street from King street to Vineyard street	3,000.00
Extending Kukui street from Nuuanu to River street	1,000.00
Ewa and Waianae	1,000.00
Road from Pauhala to Government road, Ewa	500.00
Purchase of rock crusher, Ewa and Waianae	2,000.00
Waialua	3,500.00
Koolauloa	2,000.00
Koolaupoko	8,000.00
Repairs to breakwater, Waiahole	500.00
	171,700.00

ROADS AND BRIDGES, KAUAI.

Koloa district:	
Roads and bridges, Koloa, general	$96.08
Culverts and bridges, new, Kalahea grade	1,500.00
New grade Wahiawa valley west	800.00
New fill and culvert on Lihue road	500.00
Widening grade and wall, Wahiawa east	1,000.00
Culverts, Lawai-Kalahea grade	800.00
Wahiawa bridge	600.00
Hanakaape bridge	800.00
Wailana bridge	300.00
Koloa Mill bridge	300.00
Waimea	2,000.00
Hanalei	8,000.00
Bridge across Waipa stream	4,000.00
Waikaiea bridge	700,00
	21,396.08
Roads and bridges, general	6,000.00

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ROAD DAMAGES.

Road damages, all islands	$50,000.00

GENERAL.

Electric light, Honolulu	$12,000.00
Electric lighting, Hilo streets	4,000.00
Street signs, Honolulu	500.00
Lighting streets other than Honolulu and Hilo	1,500.00
Running expenses, laundries	8,000.00
Curbing and paving government sidewalks	5,000.00
Fencing and grading government lots	2,000.00
Lights at Kailua, Keauhou, and Napoopoo landings	500.00
Repairing Lahaina fish market	400.00
Court-house and jail, Kipahulu	1,000.00
Repairs Lahaina court-house	1,200.00
Jailor's house, North Kohala	300.00
Repairs to court-house and jail, Hookena	500.00
Court-house and jail, Pahala, Kau	400.00
Jailor's house, Hookena	150.00
Addition Hana court-house, Maui	150.00
Telephone from North Kona to South Kona on condition that a like amount be expended by residents of the districts	2,500.00
	40,100.00

BOARD OF HEALTH.

General expenses	$10,000.00
Medicines	9,000.00
Support and maintenance of hospitals	16,000.00
Removing garbage	10,000.00
Support of nonleprous children of lepers	12,000.00
Expenses under act to mitigate	1,000.00
Quarantine expenses	10,000.00
Segregation, support, and treatment of lepers	180,000.00
Kalaupapa store	25,000.00
Expenses under opium act	5,000.00
Insane asylum	33,600.00
Electric plant for insane asylum	2,600.00
Aid to Kapiolani Maternity Home (On condition of a monthly report of cases and expenses to the board of health.)	4,800.00
Buildings to be used as home for nonleprous boys of leprous parents	5,000.00
	324,000.00

FORESTS AND NURSERIES.

Forests and nurseries, general	$12,000.00

PUBLIC GROUNDS.

Public grounds, general	$4,000.00
Honolulu park commission	7,500.00
Incidentals and traveling expenses entomologist	1,000.00
	12,500.00

FIRE DEPARTMENTS.

Honolulu fire department	$18,550.00
Hilo fire department	2,400.00
	20,950.00

SUBSIDIES.

Subsidy to Queen's Hospital	$20,000.00
Subsidy to consumptive ward, Queen's Hospital (Conditioned upon the free treatment of government patients.)	5,000.00
Subsidy to Paradise of the Pacific (Provided that at least 600 copies be sent abroad monthly, free of charge, to such addresses as the minister of foreign affairs shall dictate.)	2,400.00

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Subsidy to steamer between Honolulu, Maui, Molokai, and Lanai, on condition of its being a steamer of not less than 120 tons burden registered	$5,200.00
Subsidy to steamer between Hilo, Pohoiki, and Kahena, Hawaii, one trip a month	1,200.00
Telephone communication between Pohoiki court-house, Puna, and Hilo, on condition that a like amount be expended by the residents of the districts, and provided that the government shall have the free use of two instruments for five years	1,200.00
	35,000.00

INTERIOR DEPARTMENT, GENERAL.

Printing and advertising	$8,500.00
Expenses of election	15,000.00
Expenses filing certificates of boundaries	100.00
Quarantine of diseased animals	625.00
Government pounds	500.00
Rent custom-house lot at Kahului	600.00
Departmental incidentals	3,000.00
Purchase of lot for Oahu prison	1,500.00
	29,825.00

RECAPITULATION.

Department of the judiciary	$42,375.50
Department of foreign affairs	99,655.00
Treasury department	644,462.99
Customs bureau	22,500.00
Postal bureau	43,500.00
Tax bureau	10,000.00
Department of the attorney-general	144,200.00
Department of public instruction	136,500.00
Commission of public lands	12,000.00
Bureau of survey	48,200.00
Bureau of conveyances	550.00
Bureau of immigration	2,500.00
Bureau of waterworks	59,200.00
Bureau of public works	591,663.02
Board of health	324,000.00
Forest and nurseries	12,000.00
Public grounds	12,500.00
Fire departments	20,950.00
Subsidies	35,000.00
Interior department, general	29,825.00
	2,289,581.50

SECTION 2. In the construction of all new roads or bridges and in the expenditure of all specific appropriations for repairing the roads and bridges it shall first be necessary that the road boards of the several districts in which such new work is contemplated shall approve of the same, and all such work shall be under the supervision of the road board of the district in which such new work is being carried on, and the final acceptance of all such work by the superintendent of public works shall be on the certificate from such road board that the same has been done in a good and workmanlike manner and as provided by the contract and specifications.

SECTION 3. It shall be lawful for the treasurer to continue to make payments in accordance with the appropriations authorized by this act until the 31st day of March, A. D. 1900, and thereafter at the same rate until new appropriations are made.

SECTION 4. The treasurer shall not cause or allow to be paid from the treasury any money for the objects named in this act except as

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herein provided, and the unauthorized expenditures of any money from the treasury, to be thereafter accounted for to the legislature by indemnity bill, is hereby expressly prohibited.

SECTION 5. All and every contract for constructing or repairing public works amounting to five hundred ($500) dollars, and for furnishing material, provisions, and other supplies, shall be awarded only upon public advertisement for tenders; and no public work, material, or supplies shall be divided or parceled out for the purpose of evading the provisions of this section.

Approved, with the exception of the following items under subheading

POSTAL BUREAU.

Mail subsidy, Wilder's S. S. Co	$3,000.00
Mail subsidy, Inter-Island S. N. Co	3,000.00

This 7th day of July, A. D. 1898.

SANFORD B. DOLE,
President of the Republic of Hawaii.

ACT 59.

AN ACT to prohibit the erection of barbed wire fences and the placing of barbed wire upon fences in certain places.

SECTION 1. From and after the passage of this act it shall be unlawful, for any person to build or erect any fence made or constituted wholly or partly of barbed wire along or adjoining any public highway, or to place upon or attach to any such fence any barbed wire.

SECTION 2. Any person violating section 1 of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be liable to a fine not exceeding one hundred dollars or be imprisoned at hard labor not more than one month.

ACT 60.

AN ACT to amend act 73 of the laws of the provisional government approved the 26th day of April, 1894, entitled "An act making special appropriations for salaries and pay rolls during the two years which will end with the thirty-first day of March, 1896."

SECTION 1. The following sums amounting to $2,209,456 are hereby appropriated to be paid out of all moneys in the treasury received from all the current receipts of the general revenue of the Territory of Hawaii for the biennial fiscal period, commencing with the first day of January, A. D. 1898, and ending with the thirty-first day of December, A. D. 1899.

SALARIES AND PAY ROLLS.

Salary of president	$24,000.00

PERMANENT SETTLEMENTS.

Queen Dowager Kapiolani	4,000.00
Kaiulani	6,000.00
Mrs. Emma Barnard	600.00
Mrs. Kamakani Simeona	400.00
Mrs. Kaulua	400.00
Mrs. Mary R. Stoltz	720.00
F. W. Fehlbehr	720.00
	12,840.00

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JUDICIARY.

Salary of chief justice	$12,000.00
Salary of first associate justice	10,000.00
Salary of second associate justice	10,000.00
Salary of clerk of judiciary	5,400.00
Salary of shorthand reporters	9,600.00
Salary of Hawaiian interpreters, supreme and circuit courts, two at $3,000.00 each	6,000.00
Salary of Chinese interpreter and translator	3,600.00
Salary of Japanese interpreter and translator	3,000.00
Salary of Portuguese interpreter and translator	1,200.00
Pay of interpreters in all courts not specially provided for	3,000.00
Salary of messengers, two at $960.00 each	1,920.00

FIRST CIRCUIT.

Salary of first circuit judge, first circuit	8,000.00
Salary of second circuit judge, first circuit	8,000.00
Salary of first clerk, first circuit	3,600.00
Salary of second clerk, first circuit	3,000.00
Salary of third clerk, first circuit	2,400.00
Salary of fourth clerk, first circuit	1,800.00
Salary of district magistrate, Honolulu, 1st class	5,000.00
Salary of clerk and interpreter, Honolulu district court	2,400.00
Salary of district magistrate, Ewa, fourth class	1,680.00
Salary of district magistrate, Koolaupoko, 6th class	1,000.00
Salary of district magistrate, Koolauloa, 7th class	800.00
Salary of district magistrate, Waialua, 7th class	800.00
Salary of district magistrate, Waiannae, 7th class	800.00

SECOND CIRCUIT.

Salary of circuit judge, second circuit	6,000.00
Traveling expenses, circuit judge and clerk, second circuit	300.00
Salary of clerk, second circuit	1,500.00
Salary of district magistrate, Lahaina, 3rd class	2,200.00
Salary of district magistrate, Wailuku, 2nd class	2,880.00
Salary of district magistrate, Makawoa, 3rd class	2,200.00
Salary of district magistrate, Hana, 4th class	1,680.00
Salary of district magistrate, Kipahulu, 8th class	600.00
Salary of district magistrate, Honuaula, 8th class	600.00
Salary of district magistrate, Molokai, 6th class	1,000.00
Salary of district magistrate, Lanai, 8th class	600.00

THIRD CIRCUIT.

Salary of circuit judge, 3d and 4th circuits	6,000.00
Traveling expenses, circuit judge and clerk, 3d and 4th circuits	500.00
Salary of clerk, 3d and 4th circuits	2,400.00
Salary of shorthand reporter	2,000.00
Salary of district magistrate, South Kohala, 6th class	1,000.00
Salary of district magistrate, North Kona, 4th class	1,680.00
Salary of district magistrate, North Kohala, 3d class	2,200.00
Salary of district magistrate, South Kona, 5th class	1,200.00
Salary of district magistrate, West Kau, 6th class	1,000.00
Salary of district magistrate, East Kau, 7th class	800.00

FOURTH CIRCUIT.

Salary of district magistrate, South Hilo, 2d class	2,880.00
Clerk and Hawaiian interpreter, district court, South Hilo	1,200.00
Salary of district magistrate, North Hilo, 7th class	800.00
Salary of district magistrate, Hamakua, 3d class	2,200.00
Salary of district magistrate, Puna, 7th class	800.00

FIFTH CIRCUIT.

Salary of circuit judge, fifth circuit	6,000.00
Salary of clerk, fifth circuit	1,200.00
Salary of district magistrate, Lihue, 3d class	2,200.00

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Salary of district magistrate, Waimea, 4th class	$1,680.00
Salary of district magistrate, Koloa, 5th class	1,200.00
Salary of district magistrate, Kawaihau, 6th class	1,000.00
Salary of district magistrate, Hanalei, 6th class	1,000.00
	165,500.00

DEPARTMENT OF FOREIGN AFFAIRS.

Salary of minister of foreign affairs	$12,000.00
Salary of secretary	4,800.00
Salary of clerks—1 clerk at $2,400.00, 1 clerk at $2,000.00, extra clerks $1,000.00	5,400.00
Salary of clerk, executive council	3,000.00
Salary of envoy at Washington	12,000.00
Salary of secretary at legation, Washington	8,400.00
Salary of consul-general, San Francisco	8,000.00
Clerical aid, San Francisco	2,400.00
Pay of messenger, foreign office	1,200.00
Support of military pay roll	110,000.00
Band	36,000.00
Preservation of archives	3,000.00
	206,200.00

DEPARTMENT OF FINANCE.

Salary of minister	$12,000.00
Salary of auditor	7,200.00
Salary of deputy auditor from July 1, 1898, to January 1, 1900	3,600.00
Clerical assistance auditor from July 1, 1898, to January 1, 1900	11,000.00
Salary of registrar of public accounts	5,400.00
Salary of clerk of finance office	3,600.00
Salary of second clerk and messenger	1,200.00
Salary of tax assessor of Oahu	5,400.00
Salary of tax assessor of Hawaii	5,000.00
Salary of tax assessor of Maui	4,600.00
Salary of tax assessor of Kauai	4,000.00
Salaries and commissions of deputy tax assessors and collectors	60,000.00
	123,000.00

POSTAL BUREAU.

Salary of postmaster-general	$6,000.00
Salary of deputy postmaster-general and secretary	4,000.00
Salary of superintendent of postal savings bank	4,000.00
Salary of superintendent of postal money-order department	4,000.00
Salary of clerks	33,720.00
Not to exceed—	
1 clerk at $150.00 per month.	
1 clerk at $125.00 per month.	
4 clerks at $100.00 each per month.	
2 clerks at $75.00 each per month.	
3 clerks at $70.00 each per month.	
4 clerks at $50.00 each per month.	
2 clerks at $45.00 each per month.	
1 clerk at $40.00 each per month.	
2 clerks at $20.00 each per month.	
Pay of postmasters	40,000.00
Pay of mail carriers	38,000.00
	129,720.00

BUREAU OF CUSTOMS.

Salary of collector-general	$6,000.00
Salary of deputy collector, port of Honolulu	5,400.00
Salary of 3 entry clerks	7,800.00
Salary of 3 statistical clerks	8,400.00
Salary of port surveyor, Honolulu	4,000.00
Salary of storekeeper	2,400.00

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Pay of appraisers and examiners:	
Appraiser	$4,200.00
Assistant appraiser	3,000.00
Salary of customs gauger and tester	3,000.00
2 examiners	4,800.00
Appraiser's storekeeper	2,400.00
Pay of Chinese and Japanese invoice inspectors	2,400.00
Salary of 3 pilots, Honolulu, each $4,800.00	14,400.00
Pay of assistants, customs warehouses	7,200.00
Pay of customs inspectors, Honolulu	20,000.00
Pay of customs guards, Honolulu	27,500.00
Salary of 1 pilots' watchman, Diamond Head	1,800.00
Salary of 1 pilots' watchman, pilots' office	1,440.00
Pay roll pilots' boats	5,000.00
Pay of assistant guards, all ports	8,000.00
Salary of collector, Kahului	3,000.00
Salary of port surveyor, Kahului	2,000.00
Pay of customs guards and inspectors, Maui	4,320.00
Salary of collector, Hilo	3,000.00
Salary of port surveyor, Hilo	2,000.00
Pay of customs guards and inspectors, Hawaii	4,320.00
Salary of collector, Mahukona and Honoipu	1,800.00
Salary of collector, Waimea and Koloa	400.00
Salary of collector, Kailua and Kealakekua	400.00
	160,380.00

DEPARTMENT OF THE ATTORNEY-GENERAL.

Salary of attorney-general	$12,000.00
Salary of deputy attorney-general	6,000.00
Assistant to attorney-general	3,600.00
Salary of clerk to the attorney-general's department	3,600.00
Salary of marshal	6,000.00
Salary of clerk to marshal	3,600.00
Salary of deputy marshal	4,200.00
Salary of jailor, Oahu prison	3,600.00
Salary of sheriff of Hawaii	5,000.00
Salary of sheriff of Maui	4,500.00
Salary of sheriff of Kauai	4,000.00
Salary of clerk to sheriff, Hawaii	1,800.00
Salary of clerk to sheriff, Maui	1,800.00
Salary of clerk to sheriff, Kauai	800.00
Salary of deputy sheriff, Hawaii	3,600.00
Salary of deputy sheriff, North Kohala	2,400.00
Salary of deputy sheriff, South Kohala	1,200.00
Salary of deputy sheriff, Hamakua	2,400.00
Salary of deputy sheriff, North Hilo	1,440.00
Salary of deputy sheriff, North Kona	2,400.00
Salary of deputy sheriff, South Kona	1,800.00
Salary of deputy sheriff, Kau	2,040.00
Salary of deputy sheriff, Puna	1,440.00
Pay of police Hawaii	55,000.00
Salary of deputy sheriff, Maui	3,000.00
Salary of deputy sheriff, Makawao	2,400.00
Salary of deputy sheriff, Lahaina	1,920.00
Salary of deputy sheriff, Hana	1,920.00
Salary of deputy sheriff, Molokai	1,600.00
Pay of police, Maui	30,000.00
Salary of deputy sheriff, Kauai	3,000.00
Salary of deputy sheriff, Kawaihau	1,560.00
Salary of deputy sheriff, Hanalei	1,560.00
Salary of deputy sheriff, Koloa	1,560.00
Salary of deputy sheriff, Waimea	2,400.00
Pay of police, Kauai	18,000.00
Salary of deputy sheriff, Koolaupoko	1,200.00
Salary of deputy sheriff, Koolauloa	1,200.00
Salary of deputy sheriff, Waialua	1,200.00
Salary of deputy sheriff, Waianae	1,200.00

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Salary of deputy sheriff, Ewa	$1,800.00
Pay of police, Oahu	135,000.00
Salary of 2 clerks, receiving station	2,880.00
Salary of supreme court officer	2,160.00
Salary hack inspector	2,400.00
Salary of physicians, receiving station and prison	2,400.00
Pay of jailors, guards, and lunas of prisoners	55,000.00
Salary of keeper of kerosene warehouse	1,800.00
Salary of keeper of powder magazine	1,200.00
Salary of stenographer to department	3,000.00
	415,580.00

DEPARTMENT OF PUBLIC INSTRUCTION.

Salary of inspector-general of schools	$6,000.00
Traveling expenses for inspector-general	500.00
Salary of deputy inspector and school agent, Honolulu	900.00
Salary of traveling normal instructor	6,000.00
Traveling expenses normal instructor	500.00
Salary of secretary of department	3,600.00
Salary of assistant secretary and school agent, district of Honolulu, Oahu	3,000.00
Salary of messenger and book clerk	1,800.00
Support of public schools, pay roll	450,000.00
Salaries of school agents	4,500.00
Salary of superintendent of industrial school	2,400.00
Salary of matron of industrial school	1,800.00
Pay of guards of industrial school	1,800.00
	482,800.00

DEPARTMENT OF INTERIOR.

Salary of minister	$12,000.00
Salary of chief clerk	5,400.00
Salary of first assistant clerk	4,800.00
Salary of second assistant clerk	3,600.00
Salary of third assistant clerk	3,000.00
Salary of fourth assistant clerk and copyist	2,400.00
Salary of 2 messengers, $1,200.00 each	2,400.00
Salary of clerk of land records and copying patents	1,800.00
Salary of electoral registrar	1,200.00
Salary of veterinary surgeon	1,200.00
	37,800.00

COMMISSION OF PUBLIC LANDS.

Salary of land agent	$6,000.00
Salary of secretary and subagent, 5th land district	4,200.00
Salary of clerk	2,400.00
Salary of assistant clerk, copyist, and typewriter	1,200.00
Pay of subagent, 1st district	3,000.00
Pay of clerk, 1st district	1,200.00
Pay of subagent, 2nd district	1,200.00
Pay of subagent, 3rd district	960.00
Pay of subagent, 4th district	1,200.00
Pay of subagent, 6th district, not to exceed	720.00
Pay of ranger, 1st land district	1,200.00
Pay of ranger, 2nd land district	720.00
Pay of ranger, 3rd land district	720.00
Pay of ranger, 4th land district	720.00
Pay of ranger, 5th land district	720.00
Pay of ranger, 6th land district	720.00
	26,880.00

BUREAU OF SURVEY.

Salary of surveyor-general	$6,000.00
Salary of chief assistant, in charge of office	5,400.00
Salary of first assistant	4,800.00

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Salary of second assistant	$4,200.00
Salary of third assistant	2,700.00
Salary of draftsman	2,100.00
Salary of aid	1,200.00
Salary of messenger	960.00
	27,360.00

REGISTRAR OF CONVEYANCES.

Salary of registrar	$5,400.00
Salary of deputy registrar and copyist	3,000.00
Salary of 5 copyists, one each at $75.00; $65.00; 2 at $50.00, and one at $40.00 each per month	6,720.00
	15,120.00

BUREAU OF IMMIGRATION.

Salary of inspector	$4,800.00
Salary of secretary	3,000.00
	7,800.00

BUREAU OF WATER WORKS.

Salary of superintendent of Honolulu water works and clerk of market	$5,400.00
Salary of clerk	3,600.00
Salary of assistant clerk	1,200.00
Pay of reservoir keepers	2,640.00
Pay of plumber and assistant	2,640.00
Pay of tap inspector	2,184.00
Pay of shipping tenders	1,200.00
Pay of market keeper	720.00
Pay of assistant market keeper	600.00
Salary of superintendent Wailuku and Kahului water works for 12 months, if said works are established	420.00
Salary of superintendent of Hilo water works	1,800.00
Salary of superintendent of Laupahoehoe water works	40.00
Salary of superintendent of Koloa water works	50.00
Salary of two engineers	6,000.00
	28,494.00

BUREAU OF PUBLIC WORKS.

Salary of superintendent	$6,000.00
Salary of road engineer	4,800.00
Salary of bookkeeper	3,600.00
Salary of draughtsman and assistant superintendent	3,000.00
Salary of clerk	1,800.00
Salary of harbor master	6,000.00
Salary of road supervisor, Honolulu	4,800.00
Roads and bridges, Honolulu, pay roll	26,664.00
Steam tug, pay roll	13,200.00
Electric light, regular pay roll: One inspector, at $150.00 per month; two dynamo men, 1 at $80.00 and 1 at $65.00, $145.00 per month; one lineman at $65.00 per month; one station keeper, at $55.00 per month; two trimmers, at $55.00 each per month	12,600.00
Pay of light-house keepers	8,920.00
Pay of keeper of wharf and buoys, Lahaina	240.00
Pay of gunpowder keeper, Hilo	50.00
	91,674.00

BOARD OF HEALTH.

Salary of secretary	$4,000.00
Pay of government physicians	36,000.00
General expenses, pay roll	18,960.00
Nonleprous children, pay roll	2,400.00
Removing garbage, pay roll	10,800.00
Keeper quarantine station	1,200.00

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Maintenance of hospitals, pay roll	$13,000.00
Act to mitigate, pay roll	3,150.00
Segregation of lepers, pay roll	38,400.00
Salary of superintendent of insane asylum	3,600.00
Pay of assistants, insane asylum	23,664.00
Salary of food commissioner, 18 months	3,150.00
	158,324.00

FORESTS AND NURSERIES.

Pay of commissioner	$4,200.00
Pay of entomologist	4,000.00
Pay of gardener, nursery	2,040.00
Pay of forester	2,040.00
Pay of laborers, Makiki and Nuuanu	5,400.00
Pay of laborers, nurseries	1,080.00
Pay of chief forester, from July 1, 1898, to January 1, 1900	3,600.00
Pay of expert forester	1,500.00
	23,860.00

PUBLIC GROUNDS.

Pay roll, government buildings	$4,944.00
Pay roll, Makiki and river parks	2,040.00
Pay roll, Thomas and Emma squares	2,040.00
Salary, keeper mausoleum and grounds	780.00
Salary of janitor and keeper executive and judiciary grounds and buildings	2,400.00
	12,204.00

FIRE DEPARTMENTS.

Honolulu fire department, regular pay roll (Expenditures under this appropriation are made subject to the approval of the minister of the interior.)	59,040.00
Pay of steward, watchman, and engineer, Hilo fire department	1,080.00
	60,120.00

RECAPITULATION.

Salary of president	24,000.00
Permanent settlements	12,840.00
Judiciary	165,500.00
Department of foreign affairs	206,200.00
Department of finance	123,000.00
Postal bureau	129,720.00
Bureau of customs	160,380.00
Department of the attorney-general	415,580.00
Department of public instruction	482,800.00
Department of the interior	37,600.00
Commission of public lands	26,880.00
Bureau of survey	27,360.00
Registry of conveyances	15,120.00
Bureau of immigration	7,800.00
Bureau of waterworks	28,494.00
Bureau of public works	91,674.00
Board of health	158,324.00
Forest and nurseries	23,860.00
Public grounds	12,204.00
Fire departments	60,120.00
	2,209,456.00

SECTION 2. It shall be lawful for the treasurer to continue to make payments, in accordance with the appropriations, authorized by this act until the thirty-first day of March, A. D. 1900, and thereafter at the same rate until new appropriations are made.

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SECTION 3. The treasurer shall not cause or allow to be paid from the treasury any money for the objects named in this act, except as herein provided, and the unauthorized expenditure of any money from the treasury, to be thereafter accounted for to the legislature by indemnity bill, is hereby expressly prohibited.

SECTION 4. No person holding more than one office shall be authorized to draw more than the salary of the highest grade of office held by him, if the salary of any office held by him shall amount to eighteen hundred dollars or more per annum, and shall be entitled to no other or further compensation.

SECTION 5. The treasurer shall not pay or allow to be paid from the treasury any sum on account of any item of this act in excess of the due proportion of the amount appropriated for such item for the time elapsed: Provided, however, that the governor may authorize the treasurer to pay, on the requisition of the head of any department, moneys in excess of such proportion.

ACT 61.

AN ACT to authorize licenses for the retail of wines, beers, and ales of low alcoholic strength.

SECTION 1. The treasurer is hereby authorized and empowered, with the approval of the governor, to issue licenses for the term of one year to any applicant for sale at retail only by the glass or single bottle of wines manufactured from grapes not to exceed eighteen per cent of alcoholic strength, and of beers and ales in the same manner not to exceed eleven per cent of alcoholic strength, all such wines to be unmixed with any ingredients or materials injurious to health.

Not more than three of such licenses shall be issued for each of the judicial districts in the Territory: Provided, however, That in any district, town, or place in which there is a license in existence for the selling at retail of spirituous liquors and the business of vending spirituous liquors at retail is actually carried on no such license shall be issued within two miles from the place where business is being carried on under such license: Provided, however, That Nuuanu Valley, Waikiki and Kalihi, in the district of Kona, Island of Oahu, shall for the purposes of this act be each considered a judicial district.

SECTION 2. Before the granting of a license under this act the licensee shall pay to the treasurer the sum of two hundred dollars as such license fee, and shall file with such treasurer a bond in the penal sum of five hundred dollars ($500.00), conditioned to faithfully carry out and abide by the terms and conditions of law and of the license, with not less than one sufficient surety to be approved by the treasurer. No person holding any interest in any license for the sale of wines, beers, or spirits shall be received as surety on such bond.

SECTION 3. The license by this act authorized shall be issued only to the person or persons who are in the actual active management and control of the business carried on thereunder, and who are also the actual owners thereof, and shall not be issued to any person holding a wholesale, jobbing, or retail license for the sale of spirituous liquors or to any person holding a license for the sale of imported goods, wares, and merchandise. The license shall authorize the licensee to sell and dispose of the beverages by this act allowed only between the hours of seven o'clock in the morning and eight o'clock at night on every day except Sunday, subject to being closed by the chief sheriff or his deputy

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or by any sheriff or deputy sheriff upon election days and at any other time when in the opinion of such officer the preservation of public order may for the time being require it.

SECTION 4. Such license shall contain, among other rules and regulations, the conditions that no liquor other than that allowed by the terms of the license to be sold shall be permitted in the building or on the premises wherein the licensee is authorized to sell wines, beers, and ales; that the chief sheriff or his deputy or any sheriff or deputy sheriff or police captain shall at all times and without search warrant have the right to enter the premises and examine and search the same for any spirituous or intoxicating liquor not permitted by the license and, if found, to take and carry away the same, and also to take samples of any wine, beer, or ale or other beverage on the premises and carry away the same for the purpose of analysis.

SECTION 5. The vending of wines, beer, and ale shall be regulated more definitely by the terms of the license, and the treasurer may prescribe in the license definite rules and regulations to be observed by the vendor.

SECTION 6. All persons applying for license under the provisions of this act shall, before receiving the same, file a bond (in form similar to the following), the same being always subject to the approval of the treasurer:

"Know all men by these presents, that we ——— ———, principal, and ——— ———, surety, are held and firmly bound unto the treasurer, for the use of the Territory of Hawaii in the penal sum of five hundred dollars, to be levied on our respective joint and several property in case the conditions hereinafter set forth shall be violated. For the just and full payment of which we hereby jointly and severally bind ourselves, our heirs, executors, and administrators.

"Sealed with our seals and dated this —— day of ——— 189—.

"The condition of this obligation is as follows:

"That whereas the above bounden ——— ——— has this day applied for a license to retail wines, beers, and ales in accordance with the law approved on the —— day of ——— 189—, entitled 'An act to authorize licenses for the retail of wines, beers, and ales of low alcoholic strength', and has complied with all the requisitions of law, and has consequently been granted a license to retail wines, beers, and ales, in accordance with such law, for the term of one year from date. Now, therefore, if during the continuance of this license the said ——— ——— shall faithfully observe and abide by all of the terms and conditions of said license and of said law, and all rules and regulations prescribed by the treasurer, and shall not be convicted of felony, perjury, or other infamous offense, or of any offense against or violation of the revenue laws, or of any other offense under the said statute involving a forfeiture of the said license, a copy of which is hereto annexed, then this obligation shall be void. Otherwise, upon proof being made to the satisfaction of a district magistrate, without the intervention of a jury the penalty mentioned in the bond shall be forfeited and the license of the said ——— ———, this day granted, shall be void.

"Given under our hands and seals the day and year above written.

"In the presence of

"——— ———."

SECTION 7. Whenever any person, by excessive drinking of spirituous or intoxicating liquor, misspends, wastes, or lessens his or her estate, or greatly injures his or her health, or endangers or interrupts the peace and happiness of his or her family or becomes a nuisance to

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the public, or has twice been convicted of having been drunk in any public place from the voluntary use of intoxicating liquor within twelve months then last past, the husband, wife, son, daughter, brother, sister, parent, or guardian of such person, or the district magistrate of the district, or the circuit court judge of the circuit in which such person resides, or the sheriff of the island, or any deputy sheriff, may notify in writing any licensee or licensees under this act not to sell any wines, beers, or ales to such person for the term of one year thereafter, and the serving of such notice shall be *prima facie* evidence of the receipt thereof by such licensee or licensees.

SECTION 8. If any holder of a license under this act, after receiving a notice as set forth in the preceding section, shall sell or furnish any wines, beers, or ales to such person who by excessive drinking misspends, wastes, or lessens his or her estate, or greatly injures his or her health, or endangers or interrupts the peace and happiness of his or her family, or becomes a nuisance to the public, or has twice been convicted within twelve months then last past of having been drunk in a public place from the voluntary use of intoxicating liquor; or shall sell any spirituous or intoxicating liquor on Sunday, or shall furnish on Sunday to anyone, with or without pay, any spirituous or intoxicating liquor at his place of business, or shall sell any spirituous or intoxicating liquors of higher grades than are authorized by this act, or shall sell any spirituous or intoxicating liquors mixed or adulterated with any material injurious to health, or shall sell or furnish any spirituous or intoxicating liquor to any children or drunken person, or shall suffer any person to play any unlawful game or sport within the said licensed premises or the appurtenances thereto, or suffer anyone to play at billiards or any other game upon said premises on Sunday, or shall permit prostitutes or drunken or disorderly persons to frequent said premises or to remain thereon, or shall violate any provision of this act or any condition of his license, such licensee shall be punished by a fine of not less than two hundred dollars nor more than five hundred dollars, or by imprisonment at hard labor not exceeding six months, and, in the discretion of the judge or magistrate having jurisdiction of the offense before whom the conviction is had, his license under this act may be revoked, and, in case of any subsequent conviction under the provisions of this act within twelve months after a prior conviction, the license of such licensee shall be revoked.

SECTION 9. Jurisdiction is hereby conferred upon all district magistrates to hear and determine all prosecutions authorized under the provisions of this act.

SECTION 10. For the purposes of this act the terms "spirituous liquors" shall mean any wines, spirits, ales, cider, perry, beer, or other fermented or distilled liquors, and all liquors of an intoxicating nature. "Sundays" shall mean the time between eight of the clock in the evening of Saturday and seven of the clock in the morning of the succeeding Monday.

[ACT 62.]

ACT 63.

AN ACT making special appropriations for the use of the government during the two years which will end with the 31st day of December, A. D. 1899.

SECTION 1. The following sums, amounting to $1,349,316.28, are hereby appropriated out of any moneys which will be received by the

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treasury during the biennial period ending December 31, A. D. 1899, from the loan authorized by an act passed by the legislature of 1896, entitled "An act to provide for public loans," and out of any moneys now in the treasury, or which may hereafter be received by the treasury from any balance in hand from the loan fund from whatever source, on the 31st day of May, A. D. 1898.

Provided, however, That any moneys advanced from current receipts for the objects named may, as soon as practicable, be reimbursed from moneys obtained from such loan.

SECTION 2.

DEPARTMENT OF PUBLIC WORKS.

Harbor improvement, Honolulu	$225,000.00
(Provided that no money from this appropriation shall be spent in the erection of a retaining wall across the mouth of the Nuuanu stream nor in changing the present course or flow of the Nuuanu stream as it flows into Honolulu harbor.)	
Breakwater and wharf, Hilo Bay	50,000.00
New wharf at Papiha, Nahiku, and approaches	5,000.00
Sewerage for Hilo streets	4,000.00
	284,000.00

NEW ROADS, HAWAII.

Hamakua:	
Waipio grade	$6,000.00
Upper road to Waimea	12,000.00
	18,000.00
North Hilo:	
Kahuku to Papaaloa	45,000.00
Waipunalei, Kuaia, and Paana	5,000.00
Waikaumalo and Maulua homesteads	5,000.00
	55,000.00
Hilo:	
Custom-house and post-office, Hilo	12,000.00
Widening and extending Hilo streets	10,000.00
Homestead roads (Kaiwiki, Kaumana, and Ponohawai)	20,000.00
New bridge, Wailuku River, Hilo	10,000.00
New Bridge, Waiakea River, Hilo	5,000.00
	57,000.00
Puna:	
Extension of Upper Puna road from Kekee to Kalapana	10,000.00
Crossroad at or near 14½ miles on Volcano road	2,500.00
2½ miles crossroad, and 12½ miles parallel to Volcano road	30,000.00
Pack trails in Olaa crossroads, 10 miles	10,000.00
	52,500.00
Kau:	
Waiohinu to South Kona	12,000.00
Punaluu to Hilea road	3,000.00
Volcano road to Pahala	15,000.00
	30,000.00

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South Kona:	
Wharf, Hoopuloa	$800.00
Extension to Kau	10,000.00
Grading and building road from Hoopuloa Landing to Upper Government road	4,000.00
Honaunau, Upper road to road to Napoopoo Landing at Kihei	5,000.00
	19,800.00
North Kona:	
Huehue to South Kohala	8,000.00
Road from Keauhou to the Upper road	10,000.00
	18,000.00
South Kohala:	
Waimea to North Kona	$8,000.00
Road, Waimea to Kawaihae	8,000.00
	16,000.00
North Kohala:	
Road from Puakea to Mahukona	5,000.00
Purchase of rock crusher for Kohala	2,000.00
	7,000.00

NEW ROADS, MAUI.

Hana:	
Nahiku Landing to homesteads	$5,000.00
Hana to Hanawai Gulch, through Nahiku homesteads and branches	25,000.00
Mokolau to Kipahulu	8,000.00
New road from Kailua to Hanawai, Nahiku	36,000.00
Waterworks, Wailuku and Kahului	30,000.00
Kapalipilo to Nahiku	1,000.00
Makwao:	
Kula homesteads to Makawao	5,000.00
Keokea-Kihei road and branches	10,000.00
	120,000.00

ROADS AND BRIDGES, KAUAI.

Moloaa grade and bridge	$8,000.00
Lawai road	2,500.00
	10,500.00

ROADS AND BRIDGES, OAHU.

New bridge, Kipapa Gulch, Ewa	$1,500.00
Bridge at Lauhulu, Waialua	4,000.00
New street from Leleo soap works, King street, to connect with Vineyard street extension, including road damages	5,000.00
Construction of Puunui road and extension of Liliha street	5,000.00
Stone wall, banking of Pauoa stream	3,000.00
Macadamizing West Manoa road	5,000.00
Widening and completing Beretania street from tramway stable to Kapahulu road	13,000.00
	36,500.00

MISCELLANEOUS.

New light-houses and lights:	
Completion Diamond Head	$4,000.00
(Not to exceed $2,500.00 thereof to be first expended in erecting a substantial stone tower for support to such light.)	
Makapuu	10,000.00
Light-house at Kailua, North Kona	500.00
Court-house at Kailua, North Kona	2,500.00
Sewerage of Honolulu	257,000.00

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Kalihi pumping plant		$60,000.00
Improvements Nuuanu stream, including land damages		25,000.00
Additions to waterworks, Honolulu:		
Additions to pipe system	$65,000.00	
Reservoir, Diamond Head	20,000.00	
		85,000.00
Addition to water-pipe system, Hilo		10,000.00
Fireproof vault, supreme court		3,000.00
Fireproof rooms:		
Survey office		3,500.00
Land office		2,000.00
Hilo court records		1,500.00
Wailuku court records		1,500.00
Lihue court records		1,500.00
Immigration other than Asiatics		50,000.00
New schoolhouses and teachers' cottages (unpaid bills)		1,120.19
New court-house and site, Koloa (unpaid bills)		62.56
New breakwater and wharf, Hilo (unpaid bills)		8,288.52
Harbor improvements, Honolulu (unpaid bills)		20,076.28
New roads, North Hilo		200.00
New roads, Puna (unpaid bills)		6.40
New roads, Kau (unpaid bills)		273.40
New roads, Nuuanu Pali (unpaid bills)		145.86
Addition to waterworks, Hilo (unpaid bills)		173.88
Light-house and light, Diamond Head (unpaid bills)		3,730.19
Light-house and light, Kohala Point (unpaid bills)		15.00
Light-house and light, Makahanaloa (unpaid bills)		15.00
Addition to waterworks, Kalaupapa		20,000.00
Subsidy Oahu railroad		53,900.00
		625,016.28

SECTION 3. In the construction of all new roads or bridges and in the expenditure of all specific appropriations for repairing roads and bridges it shall first be necessary that the road boards of the several districts in which such new work is contemplated shall approve of the same, and all such work shall be under the supervision of the road board of the district in which such new work is being carried on, and the final acceptance of all such work by the superintendent of public works shall be on the certificate from such road board that the same has been done in a good and workmanlike manner and as provided by the contract and specifications.

SECTION 4. It shall be lawful for the treasurer to continue to make payments in accordance with the appropriations authorized by this act from any unexpended balance until the 31st day of March, A. D. 1900.

SECTION 5. Every contract for constructing public works or for furnishing material therefor amounting to five hundred dollars shall be awarded only upon public advertisement for tenders; and no public work or requirement for material therefor shall be divided or parceled out for the purpose of evading the provisions of this section.

[ACTS 64-68.]

ACT 69.

AN ACT to authorize and provide for the construction, maintenance, and operation of a street railway or railways in the district of Honolulu, island of Oahu.

DEFINITIONS.

SECTION 1. Wherever in this act the following words occur they shall be held to have the force and meaning herein set forth unless the context clearly indicates otherwise:

"Said association and others" shall represent and mean Clinton G.

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Ballentyne, Frederick J. Lowrey, Theodore F. Lansing, James A. Kennedy, Charles S. Desky, Joseph A. Gilman, James F. Morgan, George R. Carter, and J. H. Soper, their associates and assigns, or such corporation as may be organized by them, as named in the second section of this act.

"Governor" shall refer to and mean the governor designated as the governor in the organic act establishing the Territory.

"Superintendent of public works" shall refer to and mean the person from time to time acting as the superintendent of public works, as defined in said organic act, or his lawful successor in said office.

"Railway" shall refer to and mean the rails, tracks, roadway, with its appurtenances, appliances, and connections to be placed in streets, roads, or places on the island of Oahu, as by this act provided, or to such rails, tracks, roadway, etc., of any other corporation as may now be in existence or that may hereafter be laid.

"Honolulu" or "District of Honolulu" shall refer to and mean all of that portion of the island of Oahu included in the judicial, educational, and taxation district, now defined by law as the "District of Honolulu" or "Honolulu District."

RIGHT OF WAY.

SECTION 2. The right is hereby granted to Clinton G. Ballentyne, Frederick J. Lowrey, Theodore F. Lansing, James A. Kennedy, Charles S. Desky, Joseph A. Gilman, James F. Morgan, George R. Carter, and J. H. Soper, and to their associates and assigns, or to such corporation as may be organized by them, to construct, lay down, maintain, and operate for the term of thirty years, after the railway authorized by this act shall have been commenced, a railway, either single or double track, or partly single and partly double, with such curves, switches, turnouts, poles, wires, underground or overhead conduits, and such other appliances and appurtenances as may from time to time be necessary for the use and operation thereof, along and upon the following streets, roads, and places, in the district of Honolulu, upon said island of Oahu, to wit:

1st. Beginning at the corner of Wyllie and Nuuanu streets and running along said Wyllie street to Liliha street, thence along Liliha street to King street, thence along King street to such point upon or near Nuuanu stream, whence by a direct or nearly direct line Hotel street may be entered, with the right to bridge said stream for said purpose and to cross the intervening portion of the block adjoining the stream on the north; thence along Hotel street, Palace walk, Printer's lane, or such street as may replace said Printer's lane and be extended to the end of Young street on Alapai street, with the right to cross the intervening premises between the present terminus of Printer's lane to said point on Alapai street, if such street be not at that time extended; along Young street to Kapiolani street, and through Kapiolani street to either Beretania or King streets; along Beretania or King street to Victoria street; and on Victoria street to Young street; and thence along Young street to the southeast end of said Young street; thence to King street, crossing the intervening premises; thence along King street and the unopened extension thereof to the road from Beretania street to Moiliili; thence along said road towards Waialae and Palolo to the park or Kapahulu road, and thence along said road to Leahi avenue; thence along said avenue and across the intervening property to the road leading around the

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seacoast to the southwesterly and south of Diamond Head, and along said road to Waialae.

Beginning again at the junction of said road, leading around Diamond Head and the Kapiolani Park; thence through the said park on a line parallel with the *makai* or Westerly street thereof, and *mauka* of said street, on a line designated and approved by the Honolulu park commission, to the Waikiki road at or near Makee Island; thence along the *mauka* side of the Waikiki road through the premises adjoining the same to the so-called Bishop Switch: Provided, however, That the consent of the governor first be obtained for such right of way through said park, as provided for by act 53 of the Session Laws of 1896, approved June 6, 1896, or as an alternative route in Waikiki, the following: From the said Kapiolani Park, along the Waikiki road to a road leading into the Kekio tract joining Kapiolani Park; thence along said road following around the said tract crossing Hamohamo stream, and crossing the intervening territory, to the Apuakehau stream; thence down said stream to the bridge on the Waikiki road, crossing the same and turning to the left at a convenient point, crossing the intervening property, and connecting with the Kalia road near its southeasterly terminus; thence along the said Kalia road to the Beach road or after crossing said bridge, instead of turning to the left along Waikiki, to the so-called Bishop Switch; thence down the road leading southwest to Kalia road; thence along said Kalia road to the Beach road at the Piinaio stream; thence along said Beach road to a point near Sheridan street upon a line with Queen street extension; thence to said Queen street and along the same to River street; thence along said River street to Hotel street.

Provided, however, That the said association and others in using the Young street route, may, upon first obtaining the governor's consent, in writing, go through Thomas square in place of using the route hereinbefore set forth which excludes Thomas square from being operated as a part or portion of the Young street route.

2nd. Also beginning at the corner of Fort and Queen streets and running thence along Fort street to the wharf; thence along the water front to Alakea street; thence along Alakea street to Emma street; thence along Emma street to Punchbowl street at the point of junction with School street; thence along Punchbowl street to the Pauoa road; thence along said road to a point whence by crossing the intervening premises, the right to do which is conferred, connection can be made with the southeasterly end of Judd street at Nuuanu stream, and crossing the same by a bridge; thence along said Judd street to Nuuanu street; thence along Nuuanu street and Nuuanu Valley road to the Pali; or, in place of the route on Alakea street to Emma street the following: Beginning at the junction of Alakea street and the water front; thence along Alakea street *makai* of the market; thence around the southerly side of the market to Richards street; thence along Richards street to Beretania street; thence along Beretania street to Emma street.

3rd. Also beginning at the corner of Emma and Vineyard streets; thence along Vineyard street and extension thereof to Liliha street; thence through the lands generally called Palama to a point *makai* of or near to Houghtailing's residence upon the road adjoining the Kamehameha School premises; thence along said road to King street; and thence along King street to Moanalua; or as an alternative the following: In place of the route from the "corner of Emma and Vineyard streets to a point near the Houghtailing residence," the fol-

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lowing, that is to say: Beginning at the corner of Emma and School streets; thence along School street to Liliha street; thence crossing the intervening country to and across the road leading to the Insane Asylum, and intervening country, and thence around by the road alongside the Kamehameha School premises to King street at Waipilopilo.

4th. Also beginning at the corner of Hotel and Bethel streets; thence along Bethel street to King street; thence along King street to Fort street; thence down Fort street to Merchant street; thence along Merchant street to Richards street (with a spur to or near the Hawaiian Opera House); thence along said Richards street to the water front, with the right to connect with the Richards street line on the water front and on Allen or Halekauwila street.

5th. Also beginning at the corner of Young and Alapai streets and running along Alapai to Lunalilo street; thence along Lunalilo street to Pensacola street; thence along Pensacola street to Wilder avenue; thence along Wilder avenue to Punahou street at the junction of Beckwith street; thence along Beckwith street to Metcalf street; thence along Metcalf street into Manoa Valley, connecting other roads or crossing the intervening territory with line 6.

6th. Also beginning at the corner of Wilder avenue and Punahou street and running along Punahou street to the Manoa Valley road; thence along the Manoa Valley road into Manoa Valley.

7th. Also beginning at the corner of Wilder avenue and Keeaumoku street and running along Keeaumoku street to King street; thence along King street to Sheridan street; thence along Sheridan street to the Beach road.

8th. Also beginning at the corner of Wilder avenue and Pensacola street, or at some point near the Pauoa bridge on Punchbowl street; thence along the road or through the open country upon the ridge to the Tantalus Residence Park.

9th. Also beginning at the corner of Wyllie and Liliha streets; running thence along Liliha street to the southeast, and thence across the intervening territory to the Nuuanu Valley road at or near to the electric-light station; thence to the Pali.

10th. Also beginning on King street at the junction of either road running *mauka*; thence up said road, across the Kalihi Valley, and into Kahauiki by any available route; through Kahauiki to King street at some point in Moanalua, crossing the intervening country.

11th. Whenever the majority of the owners of property on any street or road in said Honolulu shall, in writing, petition said association and others to lay a railway in such street or road, and the governor shall consent thereto, such railway may be laid thereon and thereafter may be maintained and operated for the unexpired term of the franchise.

MOTIVE POWER.

SECTION 3. 1st. The said railway shall be operated by electric power, either by overhead or underground wires or by storage batteries, or by such other method as may be an improvement upon either; or by compressed air; or by such other motive power as the said association and others may from time to time elect, subject nevertheless to the prior consent and approval of the governor: Provided, however, That a part of such railway may be operated by one motive power, while another or other portions thereof may be operated by another or other motive powers, with the consent and approval as

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aforesaid: And further provided, That it shall not be lawful to operate the whole or any part of said railway at any point between Diamond Head and the western boundary of Kalihi, or between the seacoast on the one side and a line drawn parallel or nearly parallel to the seacoast and a mile and a half distant therefrom, upon the other side, with any car, engine, or other vehicle emitting steam, smoke, or offensive odors, or burning coal or any other fuel while running upon any of the streets, roads, or places within said area, nor with animals attached to the cars.

2nd. If the said association and others, at any time, by lease or otherwise, acquire the rights, franchises, and property of any other person or corporation operating a street railway in Honolulu, or elsewhere on said Island of Oahu, the motive power in this section authorized may be used upon the railway so acquired; and all of the rights, privileges, powers, and authority by this act conferred with the reference to the occupation of streets, maintenance and operation of railways, cars, and other powers by the same conferred, are hereby authorized in the maintenance and use of the property so acquired.

3rd. The motive power by this section authorized may be used for all of the purpose of railway traffic, either in the transportation of passengers, mail, freight, or otherwise.

METHOD OF CONSTRUCTION.

SECTION 4. 1st. The said railway, together with all its branches and connections shall be thoroughly and substantially constructed according to the best modern practice, and in such manner as to cause the least obstruction to the free use of the streets, roads, and places in which it may be laid; and the location in the streets shall be as directed by the superintendent of public works.

2nd. The cars for carrying passengers shall be of the most approved construction for the comfort, convenience, and safety of such passengers, and shall be provided with fenders of the best pattern, and with proper lighting and signalling appliances, and with proper numbers, route-boards or signs, as approved by the governor.

3rd. The tracks shall not exceed in width four feet eight and one-half inches between the rails.

4th. The said association and others shall pay all expenses and damages and save the government harmless and indemnified from all loss, cost, damage, and expense in consequence of, or arising from, the construction and operation of said railway, and pay for all repairs to the streets in which the same may be located, made necessary or advisable by the construction and operation of said railway.

And said association and others shall so provide for its electric currents and provide such conductors thereof, and of return currents, that avoidable injury or deterioration shall not occur nor be done to the water pipes, sewer pipes, gas pipes, or other property of the government, or of any person or corporation, and shall save the said government, or any person or corporation, harmless and indemnified from all loss, cost, damage, and expense by reason thereof.

5th. The style of rail to be employed by the said association and others in constructing and laying down the several railway tracks, and the manner of laying such rails, shall be such as may be approved of by the superintendent of public works; provided, however, that the weight of such rails shall not be less than 56 lbs. per yard.

6th. In laying down the said tracks not more than one block on any

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one line shall be obstructed at any one time, and the work shall be carried on continuously until completed.

7th. The construction of said railway must be commenced within one year after the passage of this act, and at least ten miles must be completed, equipped, and ready for the transportation of passengers within two years after such commencement, and for the faithful performance of which said association and others shall give their bond, in the penal sum of five thousand dollars, to the superintendent of public works, said bond to be forfeited to the government in case of failure to complete and equip said ten miles of railway within the said two years; and the remainder thereof must be likewise completed, equipped, and ready for the transportation of passengers within four years after such commencement; and the franchise hereby granted shall cease and wholly determine as to any street, roads, or places not occupied in accordance with the provisions hereof within said period: Provided, that any period during which the work shall be suspended by reason of actions or injunctions or other suits, impeding and delaying construction of use, the time so lost shall not be counted as part of periods of one, two, and four years.

8th. Trolley wires shall be of a height of not less than 16 feet above the street. All guard wires, above and on both sides of the trolley wire, shall be approved as the superintendent of public works may deem expedient or necessary. The size and location of such wires and the manner of supporting them shall be subject to the approval of the said superintendent of public works.

9th. The said association and others, whenever the streets are paved or macadamized, shall pave or macadamize the entire space between its tracks, or between the outside rails of double tracks if more than one track be laid, and for one foot outside of the outer rails, and such paving or macadamizing shall be flush with the streets, and correspond with the paving or macadamizing of the remaining portion of said street, and shall be so laid that the rails shall be flush with the streets. And the said association and others shall keep its tracks and their portions of all the streets in good repair, such repair when made to be approved by the superintendent of public works. Repairs, when ordered by said superintendent of public works in writing, shall be made by the said association and others within ten days of the date of said order.

10th. All of the matters and things required by this section shall be subject to the approval of the superintendent of public works.

POWER HOUSES AND STATIONS.

SECTION 5. The said association and others shall also have the right to construct and maintain all necessary power stations or houses, and such other buildings and structures as may be needed, and to use machinery therein, for the purpose of operating said railway, and of building and maintaining stations at such points as may, from time to time, be necessary.

HAWAIIAN TRAMWAYS COMPANY.

SECTION 6. 1st. Authority is hereby conferred upon the said association and others to occupy the streets and use the tracks of the Hawaiian Tramways Company in accordance with the provisions of section 587 of the Civil Laws, provided that the said association and

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others shall comply with the provisions and requirements of this section.

2nd. Whenever it shall be necessary to cross the tracks of any other railway, the said association and others are authorized to construct and lay down at their own expense proper crossings, removing the rails so crossed for that purpose; but such construction and removal shall be done in such manner as to least interfere with the traffic of such other railway; and after the said crossings are laid the expense of maintenance shall be borne equally by the said association and others and the owners or lessees of such other railway.

3rd. In the use of any portion of the tracks of the Hawaiian Tramways Company, the cars of the Hawaiian Tramways Company or of the said association and others shall not remain standing on the portion used jointly, but shall make only such stops as are required to take on and let off passengers.

SECTION 7. The said association and others shall at all times maintain a sufficient number of cars to be used upon said railway for the carriage of passengers as public convenience may require, and such other cars designed for the carriage of mails, parcels, and goods as they may deem necessary.

SECTION 8. The rate of speed of the cars of said association and others shall not exceed eight miles per hour within the following limits in the district of Kona, island of Oahu, viz:

From the line of South street and Alapai street on the south and east to Liliha street on the north, and from the harbor front to Judd street and Pauoa road.

On none of the lines of said association and others shall the rate of speed exceed twelve miles per hour. On switches and turnouts and in rounding street corners the rate of speed shall not exceed four miles per hour; also immediately before entering Thomas Square, provided permission to pass through said square shall have been obtained as hereinbefore provided, shall come to a full stop, and after the entering the said square shall not run faster than two miles per hour through said square.

And for each violation of this provision the said association and others shall be subject to a penalty of one hundred dollars, to be recovered in the district court of Honolulu, at the suit of the attorney-general of the Territory of Hawaii or any other person, to the use of the Territory.

RATES OF FARE.

SECTION 9. 1st. Any person riding upon the cars of said railway shall be liable to pay for such transportation the following rates: For a continuous ride anywhere between Diamond Head and Moanalua, or *makai* of a line drawn parallel to the seacoast and one and a half miles distant therefrom, not to exceed five cents, provided that children under seventeen years of age, in going to and from school, shall not be required to pay over half fares, for which purpose tickets shall be issued.

2nd. For transportation without said limits such rate shall be charged as said association and others shall from time to time fix, subject to the approval of the governor.

3rd. Upon a continuous trip, persons riding upon the cars, and transferring from one car to another upon a connecting line within the limits above mentioned, shall be entitled to a transfer ticket without the payment of an extra fare upon the lines of this railway.

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4th. The said association and others shall make reasonable and just regulations, with the consent and approval of the governor, regarding the maintenance and operation of said railway on and through said streets and roads; and the said association and others failing to make such rules and regulations, the superintendent of public works, with the approval of the governor, may make them. All rules and regulations may be changed from time to time as the public interests may demand, at the discretion of the governor.

Policemen, firemen, and letter carriers, when on duty and in uniform, shall be entitled to free passage over any of the lines of said association and others.

If said association and others, or any agent or employee thereof, shall demand or charge a greater sum of money for fare on the cars of said association and others than that fixed by this act, such association and others, or such agent or employee, shall forfeit to the person who is thus overcharged the sum of one hundred dollars, to be recovered in a civil action in any court having jurisdiction thereof.

Upon the trial of an action for any of the sums forfeited as provided above, proof that the person demanding or receiving the money as fare or for the sale of a ticket or check was at the time of making the demand or receiving the money engaged in an office of said association and others, or on any vehicle belonging to it, shall be *prima facie* evidence that such person was the agent, servant, or employee of the said association and others to receive the money and the ticket or check mentioned.

SECTION 10. The person or persons lawfully in charge of any car may refuse passage to any person or persons who may refuse to pay the lawful fare, or to carry drunk, disorderly, or diseased persons, or vagrants or criminals, and may eject, forcibly if necessary, any such person or persons from the car.

RIGHT OF WAY ON TRACKS.

SECTION 11. The cars lawfully occupying and using said railway shall be entitled to and shall have the right of way upon the tracks by this act authorized to occupy streets, roads, and places, as herein mentioned, except that in case of fire such right shall yield to the fire engines during the continuance of such fire in Honolulu, and to the Honolulu police authorities in case of emergency.

SECTION 12. The said association and others shall, during the existence of this franchise, at all times have and maintain an office for the transaction of the business of the railway at some place in Honolulu convenient of access to the public; and the directors of said railway and other persons having charge, management, and control thereof shall be residents of the Hawaiian Islands.

SECTION 13. The said association and others shall have the right at all times to manufacture and construct and repair all the buildings, structures, and appurtenances, machinery, cars, and all and every other appurtenance or appliance by them required in the construction, equipment, operation, and maintenance of said railway, and to create, maintain, and use such electric or other power as may be required for the use of such railway, its appurtenances and appliances.

RIGHT TO PURCHASE OR LEASE.

SECTION 14. The said association and others shall have right to take over, either by purchase or lease, all or any part of the property,

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real and personal, rights, privileges, and franchises, of any other railway or of any other light or power company or of any company having objects in whole or in part similar to those by this act authorized, and shall have when so acquired and may exercise all of the rights, powers, privileges, and franchises of such company, whether the same shall be derived by charter or act of the legislature.

RIGHT OF CONSOLIDATION.

SECTION 15. The said association and others may unite, amalgamate, and consolidate the stock by them issued with that of other persons in a company or companies having similar objects, or may enter into contracts and working agreements, or enter into engagements or leases with and take shares in the stock of any other company or companies having such similar objects.

RIGHT TO BORROW MONEY AND ISSUE BONDS.

SECTION 16. The said association and others, whenever from time to time it shall be deemed expedient, in furtherance of the objects by this act authorized, shall have the power to borrow money and to secure the payment thereof, with the interest agreed upon, by mortgages of all or any portion of the property, which may include the franchise, of such association and others, and such mortgages may be issued, or if it be deemed advisable, in the form of mortgage bonds, secured by trust deed of such property as aforesaid. Such mortgages or trust deeds may, in addition to the property named above, cover also any property or property rights to be acquired after their several dates as well as the income and receipts of the property from whatsoever source derived. Such mortgages and trust deeds may also contain such provisions as the said association and others may deem advisable and proper for the protection of all concerned, relative to payments of interest and principal; possession and operation of said railway or other property; default, remedies, foreclosures, powers of mortgages or trustees in all matters; and all and every other matter which it may be deemed wise and proper to insert therein: Provided, That nothing in this section contained shall operate to prevent said association and others from obtaining the usual business credits and to make promissory notes without security under seal.

CHARGES UPON EARNINGS.

SECTION 17. The following charges shall be lawful upon the income of said railway:

1st. The expense of operating, repairs, renewals, extensions, interest, and every other cost and charge properly or necessarily connected with the maintenance and operation of said railway.

2nd. Dividends may be paid to the stockholders not to exceed eight per cent on the par value of the stock issued.

3rd. A sinking fund may be created for the redemption of any bond which may be issued, or other record debt, and the capital upon the expiration of the franchise: Provided, however, That the amount placed to the credit of such sinking fund annually shall not exceed in amount such a sum, with interest computed at five per cent per annum, compounded, as will, principal and interest combined, at maturity equal the par value of the bonds, record, and capital debt aforesaid.

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4th. The excess of income shall be divided equally between the government of the Territory of Hawaii and the stockholders of said corporation.

5th. A quarterly account or trial balance of the corporation shall be rendered by the corporation to the superintendent of public works from the beginning of the actual construction of the railway.

PENALTIES.

SECTION 18. Any person willfully or maliciously doing any of the following acts, to wit: Obstructing the free passage of the cars along said railway; defacing, marring, or injuring the posts, wires, or other appliances used in operating; defacing, marring, or injuring the cars or other property; using the posts, fences, houses, or other property without consent for advertising purposes, or in any other manner inflicting injury to the property or causing annoyance and embarrassment in the enjoyment of their property rights and franchise to the said association and others, shall be guilty of a misdemeanor, and upon conviction thereof in the district court of Honolulu shall be punished by fine not exceeding fifty dollars or by imprisonment at hard labor not exceeding three months, or, upon a second or further conviction, by both such fine and imprisonment: Provided, however, That nothing herein contained shall prevent the punishment of such offender for any other offense included in this act or resulting therefrom.

RIGHT OF EMINENT DOMAIN.

SECTION 19. Whenever it shall be necessary that private property should be taken by said association and others for rights of way through the places or property specifically named in this act, and the same can not be acquired by purchase or by lease for the term of this franchise for a reasonable or fair compensation, the said association and others are hereby authorized and empowered to take such places or property to the extent only of the actual amount necessary for the said rights of way in the manner hereinafter provided.

SECTION 20. If the person, persons, association, or corporation owning such property does not consent and agree to the use required and to the compensation offered therefor, the said association and others may institute proceedings before a judge of the first circuit at chambers for the condemnation of the required premises.

SECTION 21. The proceedings shall be in the nature of proceedings "in rem," and shall be so entitled. They shall in all cases be instituted by the filing of a petition sworn to by some person thereunto duly authorized, which shall set forth all matters material in the determination of the issue, and which shall at least include the names and character of petitioner; a statement of the object for which the premises sought to be condemned are required; the names of those who have agreed to the uses required, and the compensation offered; the route, if the object be the laying out and construction of the railway; or location of building or other structures, and any other matter pertinent to the issue. All persons whose interests are involved may be joined in the proceeding, or several actions may be instituted.

SECTION 22. Notice of hearing, specifying briefly the nature of the matter at issue, shall be advertised in at least one newspaper of general circulation published in Honolulu for not less than one week, and a like notice shall also be served upon each owner and

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tenant of the several premises sought to be condemned. If any such owner or tenant shall be nonresident or absent, service may be made by leaving such notice at the last known place of residence or upon any known agent of such nonresident or absent owner or tenant, and in any other manner prescribed by the said judge. Proof of service may be made by admission in writing, by the oath of any responsible person making the same, or by a constable in usual form.

SECTION 23. The matter shall be in order for hearing five days after service of such notice upon the various parties interested, provided that in case of nonresidents or others absent or on whom service could not be made personally the hearing may proceed to final determination, but such persons, if not represented, shall not be bound finally as to the amount of compensation determined, but may at any time within one year after judgment, for good cause shown to the satisfaction of said judge, on notice of said association and others, ask that said compensation be increased or decreased, as the case may be.

SECTION 24. At the hearing, after proof of service, evidence shall be taken upon all matters involved, and all persons interested shall be heard upon the issues. The judge shall have jurisdiction to award damages as below set forth, and judgment shall be rendered upon all matters at issue.

SECTION 25. The judge may refer the hearing of the whole or any matters at issue to any disinterested competent person, who shall, after due notice of the hearing to all parties interested, take evidence and report his findings thereon within ten days after hearing, provided that for reasonable cause the time may be extended. The report may be confirmed, set aside, or sent back for further evidence, as the judge shall deem proper.

SECTION 26. All of the costs in the first instance shall be paid by said association and others, and, if an appeal is not taken by either party, the premises condemned may be taken possession of immediately after the amount assessed as damages shall have been paid to the clerk of the court or a receipt therefor shall be obtained from the owner or some one in his behalf. A certified copy of the judgment may be recorded in the office of the registrar of conveyances, and shall have the full force, effect, and operation of a deed of the premises.

APPEALS.

SECTION 27. If any person is aggrieved by the decision as to his rights an appeal may be taken as now provided by law to the supreme court; but such appeal when duly perfected shall only operate to suspend the judgment as to the interest of the particular defendant appealing, and no others.

DAMAGES.

SECTION 28. In fixing the compensation or damages to be paid for the condemnation of the rights of way through the places or property specifically named in this act the value of the property sought to be condemned and all improvements thereon shall be separately assessed. If the part taken shall be only a portion of the tract valued as a unit, then the damages shall be a proportionate part of such whole, subject to special damages for loss of any particular easements or appurte-

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nances, or if the part taken shall destroy the value of the tract as a unit.

RESERVED RIGHTS AND AUTHORITY AT LAW.

SECTION 29. 1st. Except as by this act otherwise so provided, the rights and privileges named in section 2 hereof are granted to the said association and others upon such terms, conditions, and restrictions as now are or may hereafter be imposed by the laws of the Territory of Hawaii in relation to the matter of constructing and maintaining street railways in the district of Honolulu, island of Oahu, and a strict compliance with such laws is hereby required of the said association and others.

2nd. The right to grade, sewer, pave, macadamize, or otherwise improve, alter, or repair any or all of the streets, roads, or highways above mentioned and of all other places in said Territory is reserved to the government, and may not be alienated or impaired, but any work in carrying out and performing such reserved rights shall be done in such manner as to obstruct or injure the railway hereby authorized as little as possible; but if such improvement, alteration, or work in accordance herewith upon such streets or roads necessarily interferes with the grade of such railway, the said railway shall be altered and made to correspond with the improvements, alteration, or grade immediately upon being so required.

3rd. The said association and others, before laying the railway upon any of the streets or roads in the district of Honolulu, shall ascertain the lawful grade of such streets or roads from the superintendent of public works, who shall furnish the required information within a reasonable time. The tracks of such association and others shall conform to the grades of said streets or roads on which they are laid down as furnished by the superintendent of public works or other officer duly appointed by him, and the said association and others shall not in any way change or alter the same without the written consent of the governor. And the government of Hawaii reserves forever the right to change the line and grades of its streets at any time that the public interests demand such changes; and the said association and others shall, at its own cost, within thirty days, conform to such new lines or grades in reconstructing its tracks or lines upon receiving notice in writing from the superintendent of public works, and such changes shall be made subject to the approval of the superintendent of public works. And in all cases of street improvements by the government the said association and others shall conform to all such improvements in the kind of pavement and the manner of laying the same, as directed by the superintendent of public works.

In case of neglect by the said association and others to make such repairs, changes, or improvements required of it by this section, they shall be made by the officers, servants, and employees of the government of Hawaii, and the cost of such repairs, changes, or improvements may be recovered by the said government from the said association and others.

SECTION 30. All material required by the said association and others to be used for the purpose of this act, when imported from the United States and being the product or manufacture of the said United States, shall be free of duty, and the property of the said association and others shall not be liable to internal taxation while said railway is

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under construction, provided that as fast as completed and equipped the completed and equipped portions shall become liable to such taxation.

SECTION 31. Said railway or corporation shall pay in annual payments to the department of the treasury the sum of ten dollars per annum as a license tax upon each passenger car used by it or them, and no greater sum shall be exacted as car license.

SECTION 32. All orders, permits, or approvals, as provided for in this act, shall be in writing.

SECTION 33. The entire plant, operation, books, and accounts of the said association and others shall, from time to time, be subject to the inspection of the minister of the interior or other officer appointed by him for the purpose.

SECTION 34. None of the rights or privileges enumerated in this act shall be exercised by the persons forming the association set forth in section 1, nor by their assigns, until a corporation shall have been duly organized under the laws of this Territory, for the purpose of constructing, operating, and maintaining the lines of railway mentioned in this act, having a capital stock of not less than two hundred thousand dollars and all the said rights and privileges assigned to said corporation without reserve.

SECTION 35. The said association and others shall provide such receptacles upon their street cars as shall be approved by the postmaster-general for the conveyance free of charge of all letters.

SECTION 36. Whenever the said association and others, or any corporation which may have been duly organized under the laws of this Territory for the purpose of constructing, operating, and maintaining the lines of railway mentioned in this act, and as by this act provided, refuses to do or fails to do or perform or carry out or comply with any act, matter, or thing requisite or required to be done under the provisions of this act, and shall continue so to refuse or fail to do or perform or carry out or comply therewith, after due notice by the superintendent of public works to comply therewith, the superintendent of public works shall, with the consent of the governor, cause proceedings to be instituted before the proper tribunal to have the franchise granted by this act, and all rights and privileges granted hereunder, forfeited and declared null and void.

SECTION 37. It shall not be lawful to increase the capital stock of said corporation at any time in excess of said two hundred thousand dollars, unless the proposed increase shall, when taken with the said original capital stock, represent only the actual cost of the property of the railway, and not over twenty-five per cent of such cost in addition thereto. Such cost may include all expense of laying tracks and equipping the road for public use, and may also include all subsequent extensions, but no such increase shall be authorized for extensions until they shall be determined upon and authorized by a vote of the corporation.

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ACT 70.

AN ACT empowering the governor to exercise control in all matters wherein Clinton G. Ballentyne and others named in section 1 of an act entitled "An act to authorize and provide for the construction, maintenance, and operation of a street railway or railways in the disctrict of Honolulu, island of Oahu," and the associates, successors, and assigns of such persons so named are authorized to exercise the right of eminent domain.

WHEREAS there has been an omission in the act referred to in the title above set forth relative to the rights of the persons named in section 1 of said bill to condemn and take property for the use of said railway or railways, and it is necessary, in order that the rights therein granted may be successfully exercised, that proper supervision and authority should be given to the governor in matters where it is necessary that the right of eminent domain should be used: Therefore,

SECTION 1. That the right to take private property for the use of the railway or railways authorized by the act entitled "An act to authorize and provide for the construction, maintenance, and operation of a street railway or railways in the district of Honolulu, island of Oahu," and the procedure to be had and taken in all such matters, shall in all cases be subject to the prior consent and approval of the governor.

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The following sections of the Appendix to the Civil Laws should be read as if inserted on page 310:

REGISTRATION BOARDS.

§ 29. For the purpose of examining applicants for registration as voters and determining their eligibility, there shall be five boards of registration, one for that portion of the Island of Hawaii known as Puna, Hilo, and Hamakua; one for that portion of the Island of Hawaii known as Kau, Kona, and Kohala; one for the islands of Maui, Molokai, Lanai, and Kahoolawe; one for the island of Oahu, and one for the islands of Kauai and Niihau. The boards of registration existing at the date of the approval of this act shall go out of office and new boards, which shall consist of three members each, shall be appointed by the governor, by and with the advice and consent of the senate, whose terms of office shall be four years. Appointments made by the governor when the senate is not in session shall be valid until the succeeding meeting of that body.

TIME OF MEETING.

[§ 30.]

§ 31. The boards shall meet within their respective districts at such times between the last day of August and the tenth day of October, in the year eighteen hundred and ninety-nine, and between such days in each second year thereafter, as many times as may be necessary to enable them to register all persons entitled to register.

REGISTER AT SPECIAL ELECTIONS.

§ 32. At any intermediate special election the register of voters used at the last preceding general election shall be used without change.

PERSONAL APPEARANCE OF APPLICANT.

§ 33. No name shall be placed upon the register of voters for either senators or representatives except upon the personal appearance of the applicant before the board of registration at an advertised public meeting of the board.

EXAMINATION OF APPLICANTS.

§ 34. Each applicant to be placed upon the register of voters for either senators or representatives shall, upon each application for registration, be examined under oath by the board of registration as to each one of the required qualifications.

Provided, however, That after an applicant shall once have passed an examination concerning his ability understandingly to speak, read, and write the English or Hawaiian language, it shall be at the discre-

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tion of the board to examine him further or not concerning such qualification.

§ 35. The examination of the applicant, and of all witnesses examined before any board of registration, shall be under oath, administered by any of the members of such board, who are hereby authorized to administer oaths for such purpose.

§ 36. The examination, number of witnesses, and time or times of examination shall be under the reasonable control and discretion of the board.

Powers of Board.

§ 37. Each board of registration is hereby given all of the powers and authority for the summoning and examination of witnesses and the maintenance of order, including the power to punish for contempt, given by law to circuit courts.

Perjury.

§ 38. Any person who shall, under oath, knowingly make any false statement before any such board, or who, knowing that he is not entitled to register or to vote, shall so register or vote, shall be guilty of the offense of perjury.

[§ 39.]

Challenging.

§ 40. Any lawful voter may challenge the right to register of any person claiming to be eligible to register as a voter, cross-examine the applicant and any witnesses produced by him, and produce and examine witnesses against such eligibility.

§ 41. No board of registration shall enter the name of any person upon the register of voters until satisfied that such person possesses the requisite qualifications.

Appeal from Board.

§ 42. If any board shall refuse to register the name of any person applying to be registered, the person refused—and, in case any name has been registered, any legal voter—may, at any time within ten days after the decision of such board, appeal to the supreme court, in the manner provided by law for civil appeals to the supreme court from the circuit court, or in such manner as may hereafter be provided by law.

§ 43. Upon such appeal being perfected, the supreme court shall proceed to hear such cause either in term time or in vacation, as soon thereafter as reasonably may be, and the determination by such court of such question shall be final.

Notice of Decision to Board.

§ 44. Immediately upon rendering a decision upon any such appeal, the supreme court shall notify the board of registration from which such appeal was taken, and if such decision shall reverse the decision of the board such board shall immediately cause the register to be corrected to conform with such decision.

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STATUS OF PERSON REGISTERED PENDING APPEAL.

§ 45. In case of an appeal from a decision of any board admitting the name of any person to registration, the name of such person shall remain upon the register pending the decision of the supreme court concerning the same.

If the person so registered shall vote at any election before a decision of the court shall have been made and acted upon, such vote shall not invalidate such election, even though the decision of the court shall be adverse to the registration of such name.

NOTICE OF MEETINGS.

§ 46. The time and place of all meetings of the several boards shall be advertised in the English and Hawaiian languages in newspapers or by notices posted in at least three frequented places in the locality where such meetings are to be held.

This section shall not be construed to prohibit the adjournment of any such advertised meeting from day to day to a time certain, announced at the time of adjournment.

TIME OF REGISTERING.

§ 47. No name shall be registered or stricken from the register except in an open meeting of the board and upon public announcement, except for the following causes, viz:

1. In case the supreme court shall render a decision upon appeal reversing the decision of the board.

2. In case the board has decided that a person is entitled to registration and his name has been accidentally omitted from the register, misspelled, or he has therein been misnamed.

COPIES OF REGISTER TO BE SENT TO INSPECTORS OF ELECTION.

§ 49. The respective boards shall, as soon as reasonably may be after the register of voters for any voting precinct is completed, prepare four copies thereof and forward them to the chairman of inspectors of election for such precinct, or, in case such officer shall not then have been appointed, to the deputy sheriff of the district in which such precinct is located.

The officer receiving such copies shall retain one for use at the election and immediately post the other copies in three frequented places within the precinct for the inspection of the public.

INSPECTORS NOT TO CHANGE REGISTERS.

§ 50. No name shall be added to or stricken from the register of voters, or in any manner changed by the inspectors of election, except upon the written order of the board of registration for such district.

CORRECTION OF REGISTER.

§ 51. If it shall be manifest to any board at any time that the name of a person admitted to registration has been accidentally omitted from the register or misspelled, or that he has been misnamed therein, such

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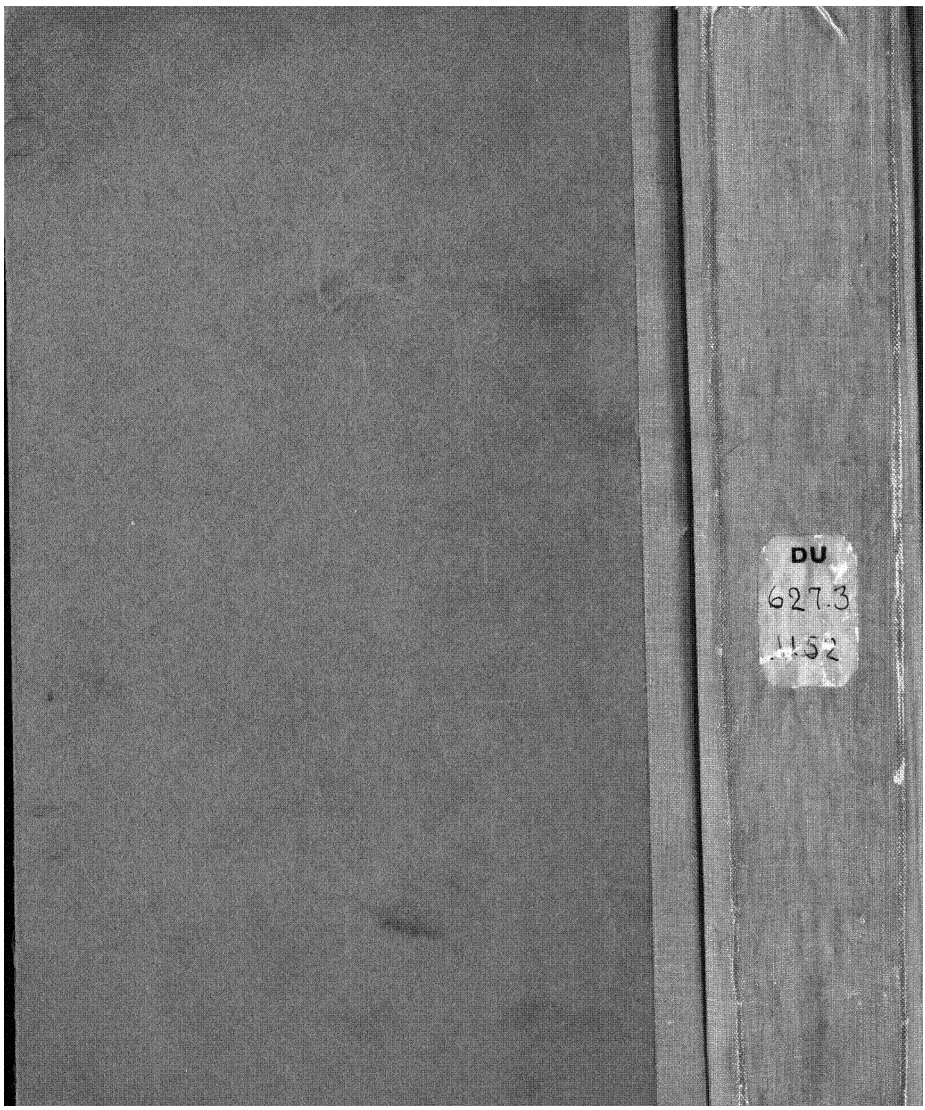
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